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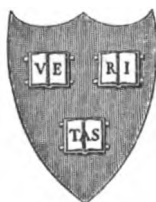
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Bombay (Presidency) Laws, statutes, etc.
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Compilations

BOMBAY ACTS c#

AND

REGULATIONS.

WITH NOTES, DECISIONS, NOTIFICATIONS, &c.

EDITED BY

JAMNATHRAM NANASAWALA

ADVOCATE, BOMBAY

Act IV of 1894 amending certain Regulations and Acts was passed after this volume was printed. That Act is given at the end of the volume and readers are requested to enter in their proper places the amendments and repeals made by that Act.

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Bombay :

PRINTED AT THE RIPON PRINTING PRESS.

1894.

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JAMIETRAM NANABHAI, B.A., LL.B.,

ADVOCATE, BOMBAY HIGH COURT,

AND

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CHIMANLAL HARILAL SETALVAD, B.A., LL.B.,

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COUNCIL OF THE GOVERNOR OF BOMBAY.

VOL. I.

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Containing Bombay Regulations (1827 to 1834) and Supreme Council
Acts solely relating to Bombay (1834 to 1894).

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Bombay :

PRINTED AT THE RIPON PRINTING PRESS.

1894.

Ind. 130
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894

India; Sunday; Statutes

FEB 17 1936

2/17/36

PREFACE.

This work is a collection of the enactments specially relating to the Presidency of Bombay, as amended by subsequent legislation. The first volume contains the unrepealed Bombay Regulations from 1827 to 1884 and the Supreme Council Acts solely relating to Bombay, from 1884 to March 1894. The Second Volume contains the Acts of the Bombay Council from 1862 to March 1894. The decisions reported in the Bombay High Court Reports, the Indian Law Reports, and the Printed Judgments and Criminal Rulings of the Bombay High Court have been brought together and noted in their proper places. The various notifications issued by Government and published from time to time in the Bombay Government Gazette under the provisions of these Regulations and Acts have also been collected and noted in their proper place.

J. N.

Bombay, March 1894.

C. H. S.

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LIST OF ABBREVIATIONS.

Vic., C.	Victoria, Chapter.
I. L. R., Bom.	Indian Law Reports, Bombay series.
B. H. C. R.	Bombay High Court Reports.
B. H. C. R., A. C. J.	Bombay High Court Reports, Appellate Civil Jurisdiction.
B. H. C. R., Cr. Ca.	Bombay High Court Reports, Criminal Cases.
P. J.	Printed Judgments of the Bombay High Court
C. R. or Cr. R.	Criminal Rulings.
G. G.	Bombay Government Gazette, Part I.
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Note.—This table contains only the repealed Acts. As regards Acts that are not wholly repealed the amendments have been noted in their proper places in those Acts.

REGULATIONS PASSED BY THE GOVERNOR OF BOMBAY IN COUNCIL.

Year.	Number.	Subject-matter.	Repealed by.
1799	I	For Codifying Regulations ...	} Reg. I of 1827.
"	II	Foreigners	
"	III	Civil Court, Salsette, Caranja, &c.	
"	IV	Suits in such Court	
"	V	Apprehension and trial of criminals... ..	
"	VI	Bombay Customs	} Act. I of 1852 (in part); " X of 1873 (in part); Reg. I of 1827.
1800	I	Civil Court, Surat	
"	II	Suits in such Court	
"	III	Apprehension and trial of criminals, Surat... ..	} Reg. I of 1827.
"	IV	Ministerial Officers of Courts, Surat	
"	V	Native Law Officers	
"	VI	Arbitrators, Surat	
"	VII	Sadr Adalat	
"	VIII	Company's Investment, Surat... ..	} Reg. I of 1827 (in part); Act I of 1852 (residue.)
"	IX	Customs, Surat... ..	

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1800	X	Revenue of tobacco-farm ...	} Reg. I of 1827.
1802	I	Court, Surat ...	
"	II	Absence of Judges and Magistrates ...	
"	III	Criminal Law ...	
"	IV	Registry for Wills and Deeds, Surat ...	
"	V	Testamentary and Intestate Succession ...	
"	VI	Records of Courts : Reports of Suits ...	
"	VII	Trial by Natives of Small Causes ...	
"	VIII	Court-fees ...	
"	IX	Appeals from Registrar, Surat Court ...	
"	X	Pauper-suits ...	
"	XI	Bonds by certain sutors, Surat..	
"	XII	Reviews ...	
"	XIII	Collectors of Revenue, Surat ...	
"	XIV	Vakils, Surat, Salsette, &c. ...	
1803	I	Town-duty, Bombay ...	} Reg. I of 1827. " III of 1834.
"	II	Appeals from Surat ...	
"	III	Extending jurisdiction of Salsette Court ...	} Reg. I of 1827.
"	IV	Modifying Regulation X of 1800	
1804	I	Revenue of Arrack farm ...	} Reg. I of 1827 (in part); Act I of 1852 (residue.)
1805	I	Amending, Regulation VI, 1799.	
"	II	Judicial and Revenue System, Guzarat : Surat Session Court.	} Reg. I of 1827.
1806	I	Bombay Custom-House ...	
1807	I	Number of Judges at discharge of jails ..	
1808	I	Record of Revenue Rules, Salsette ...	
"	II	Rules for Administration of Justice ...	

Regulations passed by the Governor of Bombay in Council.

Year.	Number.	Subject-matter.	Repealed by.
1809	I	Jurisdiction of Kaira Court ...	} Reg. I of 1827.
"	II	General Courts-martial, Bombay Army ...	
"	III	Trial of Natives charged with crimes committed abroad ...	
1810	I	Town-duty ...	} Reg. I of 1827. " III of 1834. Act I of 1852 (in part); " XXII of 1855 (residue.)
"	II	Bombay Port ...	
1811	I	Resident at Fort Victoria ...	
"	II	Assistant to Collector of Caranja ...	} Reg. I of 1827.
1812	I	Trial for State-offences...	
"	II	Empowering Judges, &c., to propose Regulations ...	
"	III	Abolishing Salsette Session Court, &c. ...	
"	IV	Appeals to Privy Council ...	
"	V	Extending to Kaira and Broach parts of Regulation II, 1808.	
"	VI	Appeals from Zillah Courts ...	
"	VII	Saddar Adalat ...	
"	VIII	Trials in Provincial Court of Circuit...	
"	IX	Trials in Superior Tribunal ...	
"	X	Judges of Provincial Court of Appeal ...	
"	XI	Rules in case of doubt as to meaning of Regulations ...	
1813	I	Importation and sale of slaves...	
"	II	Appeals ...	
"	III	Repair of water-courses, &c. ...	
"	IV	Persons triable for offences committed abroad...	
"	V	Suits by and against Native Princes ...	
"	VI	Removal of Immigrants ...	
"	VII	Execution of judgments of Bombay Court of Requests ...	
"	VIII	Native Officers ...	

Regulations passed by the Governor of Bombay in Council.

Year.	Number.	Subject-matter.	Repealed by.
1813	IX	Single Judges of Provincial Court of Appeal	} Reg. I of 1827.
"	X	Foreign trade	
"	XI	Loans by covenanted Civil Servants	
1814	I	Interest	} Reg. I of 1827.
"	II	Village-Accountants	
"	III	Non-Badshahi Grants, &c. ...	
"	IV	Embezzlement by Native Officers	} Act I of 1852.
"	V	Sale of certain drugs	
"	VI	Confiscation and sale of forfeited goods	
"	VII	March of troops	} Act I of 1852.
"	VIII	Export of Saltpetre	
"	IX	Punishment of persons guilty of several offences	
"	X	Revenue-records	} Act I of 1852.
"	XI	Resident at Sinder Droog ...	
1815	I	Preventing Judges and Collectors from retaining their Native Creditors	
"	II	Pensions	} Reg. I of 1827.
"	III	Revenue powers of senior Magistrate of Police	
"	IV	Civil jurisdiction of Residents at Fort Victoria and Malwan. ...	
"	V	Assistant Judges of Zillah and City Adalats	} Reg. I of 1827.
"	VI	Vacations and jail-deliveries ...	
"	VII	Arbitration	
"	VIII	Trading by Commercial Residents	} Reg. I of 1827.
"	IX	House-tax, Bombay	
"	X	Kazis	
"	XI	Spirit-duties	} Reg. I of 1827.
"	XII	Trials at Fort Victoria and Malwan	
"	XIII	Collection of Customs	
"	XIV	Stamps	} Reg. I of 1827.
1816	I	Pauper-suits	

Regulations passed by the Governor of Bombay in Council.

Year.	Number.	Subject-matter.	Repealed by.
1816	II	Village-Accountants	
"	III	Records of Courts	
"	IV	Manufacture and sale of Spirit...	
"	V	Export of Saltpetre	
"	VI	Thakur of Bhaunagar	
"	VII	Stamps	
"	VIII	Manifests of goods imported in small craft	
"	IX	Collector of Anjar	
"	X	Modifying Regulation X of 1818.	
1817	I	Zillahs of Kaira and Surat ...	
"	II	Amending Regulation XIII of 1815	Reg. I of 1827.
"	III	Explaining Regulation IX of 1815	
"	IV	Fees in Court of Petty Sessions	
"	V	Carriage and Horse tax ...	
"	VI	Zillahs of Salsette, Broach and Kaira	
"	VII	Smuggling tobacco and gánja ...	
1818	I	Duty on Opium	
"	II	Amending Regulation VIII, 1818	Reg. XV of 1830.
"	III	Magistrates and Criminal Judges.	
"	IV	Police	
"	V	Appeals to Privy Council ...	
"	VI	Foreign trade	
"	VII	Market fees, Music, Wedding- sheds	
"	VIII	State-prisoners	
1819	I	Police in cantonments	Reg. I of 1827.
"	II	Amending Regulation XIV of 1802	
"	III	Ceded and conquered territories.	
"	IV	Complaints against Collectors, &c.	
"	V	Native officers	
"	VI	Rescinding in part Regulation IV of 1818	
"	VII	Amending Regulation III of 1819	

Regulations passed by the Governor of Bombay in Council.

Year.	Number.	Subject-matter.	Repealed by.
1819	VIII	Security for good behaviour ...	} Reg. I of 1827.
"	IX	Criminal Law	
"	X	Amending Regulation I of 1812.	
1820	I	State-offences	
"	II	Explaining Regulation I of 1818.	
"	III	Zillah of South-Konkan ..	
"	IV	Taluka of Chief of Balaseena and Veerpur	
"	V	Abolishing Provincial Court of Appeal	
"	VI	Assistant Judges, Zillah Courts.	
"	VII	Saddar Foujdari Adalat ...	
"	VIII	Questions as to meaning of Re- gulations	
1821	I	Explaining Regulation V of 1820.	} Reg. I of 1827.
"	II	Foreign trade	
"	III	Trials for offences in Anjar ...	
"	IV	Sales of certain lands in Island of Bombay	
1823	I	Exemptions from revenue: li- mitation	
1824	I	Executions by Zillah Courts of Judgments of other Courts ...	
"	II	Construction of Regulation I of 1828	
"	III	Commencement of Regulation I of 1823, section 29	
"	IV	Registrar Saddar Adalat and Saddar Foujdari Adalat ...	
1826	I	Suits against Thakur of Bhaur- nagar	
"	II	Bribing Customs Officers ...	} Act XII of 1872. Act XIV of 1869. Act X of 1861. Act XVI of 1864. Bom. Act I of 1865, s. 50.
"	III	Courts martial, Military Courts of Requests	
1827	I	Codifying Regulations	
"	III	Civil Procedure	
"	VI	Pauper-suits and Appeals ...	
"	VII	Panchayats	
"	IX	Registration	
"	X	Disputes as to Village boundaries	

Regulations passed by the Governor of Bombay in Council.

Year.	Number.	Subject-matter.	Repealed by.
1827	XI	Persons subject to Criminal Regulations	Act XVII of 1862.
"	XIV	Crimes and Offences	Act XII of 1878.
"	XV	Police jurisdiction of land-holders	Act XVII of 1862.
"	XVI	Collectors of Land-revenue	} Bom. Act V of 1879.
"	XVII	Land-revenue	
"	XVIII	Stamps	Act XXXVI of 1860.
"	XIX	Land-revenue (Bombay town); taxes on shops, &c.	Bom. Act II of 1876.
"	XX	Sea Customs	} Act I of 1888 (in part); " XIX " " " I of 1852 " " IV of 1894. (residue).
"	XXI	Duty on Opium and Spirits	
"	XXIII	Money transactions with Natives; Occupation of land by Europeans	} Bom. Reg. XX of 1880 (in part); Act I of 1888 " " IV of 1857 " " XII of 1878 " " XII of 1876 " " I of 1878 " Bom. Act VIII of 1866 (in part). " Act V of 1878 " Act IV of 1894. (residue.)
"	XXIV	Printing Presses	
"	XXVI	Kazis	Act XI of 1864.
"	XXVII	Zillah Court of Broach	} Act XII of 1878.
"	XXVIII	Commencement of Regulations..	
"	XXX	Criminal Law, Poona and Ahmadnagar	Act XVII of 1862.
"	XXXI	Introduction of revised Code of Regulations	Act XIV of 1869.

Regulations passed by the Governor of Bombay in Council.

Year.	Number.	Subject-matter.	Repealed by.
1827	XXXII	Taxes on carriages and horses...	Act XXV of 1858.
"	XXXIII	Duty on Spirit,	Act XXIV of 1850.
"	XXXIV	Nawab of Surat... ..	Act XII of 1873.
1828	I	Broach Civil Officers	Reg. IX of 1828.
"	II	Broach Criminal Officers	Reg. X of 1828.
"	III	Stamps	Act XXXVI of 1860.
"	IV	Stamp in Dekkhan & Khandesh.	Act XII of 1873.
"	V	Suits against Sardars, Dekkhan.	Reg. I of 1834.
"	VI	Stamps	Act XXXVI of 1860.
"	VII	Appeal Court, Guzarat... ..	Reg. I of 1830.
"	VIII	Provincial Court of Circuit, Guzarat	Reg. III of 1830.
"	IX	Repealing Regulation I of 1828.	
"	X	Repealing Regulation II of 1828	Act XII of 1873.
"	XI	Assistant Criminal Judges	Reg. III of 1830.
"	XII	Assistant Criminal Judges	Act XVI of 1864.
"	XIII	Registry of Deeds... ..	Act XII of 1873.
"	XIV	Toll at Sion Causeway... ..	Act XXIV of 1850.
"	XV	Duty on Tobacco	Act XII of 1876.
"	XVI	Subsidiary Jails... ..	Act XVII of 1862.
"	XVII	Conspiracy	
1829	I	Assistants to Magistrate, Dekkhan	Reg IV of 1830, s.4.
"	II	Native troops	Act V of 1863.
"	III	Cotton frauds	Bom. Act IX of 1863.
1830	I	Jurisdiction of Native Commissioners... ..	Act XIV of 1869.
"	II	Appeals	Reg. VII of 1831.
"	III	Criminal Judges... ..	Act XVII of 1862 (in part); Bom. Act VI of 1866 " " Act X of 1872 (residue.)
"	IV	Police Jurisdiction	Act XII of 1873.
"	V	Revenue Commissioner... ..	Bom. Act V of 1879.

Regulations passed by the Governor of Bombay in Council.

Year.	Number.	Subject-matter.	Repealed by.
1830	VI	Referring suits to Komavisdars.	Bom. Act II of 1836.
"	VIII	Counter stamping, ...	Act XXXVI of 1830.
"	IX	Toll on Bhore Ghat Road ...	Act II of 1837.
"	X	Villages in Khandesh ...	Act XV of 1874.
"	XI	Private Daks ...	Act XVII of 1837.
"	XII	Valuing land in suits ...	Act X of 1862.
"	XIV	Lands on Mahabaleshwar Hills.	Act XV of 1874.
"	XV	Foreign Trade ...	Act XII of 1873.
"	XVI	Self-immolation ...	Act XVII of 1862.
"	XVII	Duties at Surat ...	Act XIX of 1844.
"	XVIII	Joint Judge, Poona Zillah ...	Act XII of 1873.
"	XIX	Joint Session-Judge, Poona Zillah.	Act XVII of 1862.
"	XX	Malwa Opium ...	Act I of 1878.
1831	II	Salt and Saltpetre ...	Act I of 1838.
"	III	Stamps on copies of decrees ...	Act XXXVI of 1860.
"	IV	Assistant Collectors' Criminal Jurisdiction ...	Act XXV of 1839.
"	V	Escapes from custody ...	Act XVII of 1862.
"	VI	Light-house on Peerum ...	Act XVII of 1858.
"	VII	Appeals in Civil Suits ...	Act XIV of 1869.
"	VIII	Session-Judges, &c. ...	Act X of 1872.
"	IX	Police-Jurisdiction of land-holders ...	Act XVII of 1862.
"	X	Vechania and Gerania tenures ...	Act XII of 1873.
"	XI	Toll on Bhore Ghat Road ...	Act II of 1837.
"	XII	Repair of walls of Ahmedabad.	Act XIX of 1844.
"	XIII	Customs duties ...	Act I of 1838.
"	XIV	Stamps ...	Act XXXVI of 1860.
"	XV	Falsification of records ...	Bom. Act V of 1879.
"	XVII	Courts of Requests ...	Act XI of 1841.
"	XVIII	Native Judicial Officers ...	Act XIV of 1869.
1832	I	Salt-tax, Malwan and Vingorla ...	Act I of 1838.
"	II	Farmers of land revenue ...	Bom. Act V of 1879.
1833	I	Manifests ...	Act I of 1852.
"	II	Judicial Native Commissioners.	Act XIV of 1869.
"	III	Police ...	Act XVII of 1862.
"	IV	Trade : Salt-duty ...	Act I of 1838.
"	V	Hereditary Officers ...	Bom. Act V of 1879.
"	VI	Exemption from payment of land-revenue ...	Bom. Act VII of 1863.

Regulations passed by the Governor of Bombay in Council.

Year.	Number.	Subject-matter.	Repealed by.
1833	VII	Rioting	} Act XVII of 1832.
"	VIII	Circuit by Judicial Commissioners	
"	IX	Prisoners under sentence of Courts beyond British India.	Act VIII of 1863.
"	X	Abkari revenue, Island of Bombay	Act XVII of 1859.
1834	II.	Villages ceded by Angria Sir keel	Act XV of 1874.
"	III	Town-duty, Bombay	{ Act II of 1836 (in part); Act XII of 1876 (residue.)
"	IV	Duty on Cotton... ..	Act I of 1838.
"	V	Tax on metals and piece-goods.	Act XIX of 1844.
"	VI	Adjournment of Civil Courts ...	Act XIV of 1869.

RULES AND REGULATIONS RELATING TO THE TOWN AND ISLAND OF BOMBAY.

Year.	Number.	Subject-matter.	Repealed by.
1812	1	For good order and Civil Government of Island of Bombay ...	Rule 3 of 1815.
"	2	Sale of spirit	Act XIII of 1856.
"	3	Building within town-walls; encroachments	{ Act XXVIII of 1839 (in part); Act XIV of 1856 (residue.)
1813	1	Maintenance of infants: Aliens.	} Act XIII of 1856.
"	2	Pariah Dogs: Pounds	
1814	1	Disputes between masters and servants	
1815	1	Control of sale of spirits ...	} Rule I of 1818. Act XXVIII of 1839 (in part); Act XIV of 1856 (residue.)
"	2	Wheels of hackeries	
"	3	Amending Police Regulations 1 and 3 of 1812... ..	

*Rules and Regulations relating to the Town and
Island of Bombay.*

Year.	Number.	Subject-matter.	Repealed by.
1818	1	Wheels of hackeries	} Act XIII of 1856.
1820	1	Shipping, desertion, harbour and dockyard	
1821	1	Ballast	
1825	1	Newspapers	Act XI of 1835.
"	2	Repealing in part. Rule 1 of 1812.	} Act IV of 1894.
1827	1	Repealing in part. Rule 1 of 1814.	
"	2	Court of Petty Sessions ...	Act XIII of 1856.
"	8	House of Correction	Bom. Act II of 1874.
1828	1	Preventing goods from being left on quays	Act IV of 1894.
1834	1	Repealing in part. Rule 2 of 1827.	Act II of 1854 (in part);
			Act XIII of 1856,
			Act IV of 1894. (residue.)

ACTS OF THE SUPREME COUNCIL SOLELY RELATING TO BOMBAY.

Year.	Number.	Subject-matter.	Repealed by.
1836	VII	<i>Authority of certain Regulations</i>	<i>Act II of 1874</i>
1855	X	Recusant witnesses	{ Act X of 1861 (in part);
1856	VIII	<i>Jails</i>	
1864	XX	Minors	Act XII of 1878 "
1869	XI	Land customs	Act VIII of 1890.
1876	XIV	Sindh Incumbered Estate ...	Act XI of 1882.
1883	XI	Port dues... ..	Act XX of 1881, s. 2.
1886	XXIV	Extending Glanders and Ferry Act	Act X of 1889.
			Act XII of 1891.

THE UNREPEALED BOMBAY REGULATIONS.

REGULATION II A.D. 1827.

A REGULATION for defining the constitution of Courts of civil justice, and the powers and duties of the Judges and officers thereof.—PASSED by the Governor in Council on the 1st January 1827, corresponding with the 4th Poush Sood Sumbut or Vikramajeet Era 1883, Salbahan 1748, and 2nd Jummadyool Akhir 1242 of the Hijree.

[Regs. I—XVII, and XIX—XXVI of 1827, came into force on 1st September 1827, excepting rules relating to stamps which along with Reg. XXVIII came into force on the 1st November 1827—(Reg. XXVIII of 1827).]

Preamble.—[Repealed by Act XIV of 1869, S. 2.]

CHAPTER I.

[Chapter I is repealed by Act XII of 1873, but Sections 1, 5, and 6, have been printed as by S. 9 of 24 & 25 Vic. c. 104 (an Act establishing High Courts in India), all powers exercised by the Courts abolished by that Act are vested in the High Courts. See Act XII of 1873; and *Mahadaji v. Sonu*, 9 B. H. C. R., 249.]

Section I.—Clause 1st.—There shall be a Supreme Court or Suddur Adawlut, the seat of which shall on being fixed or changed be made known by proclamation issued from Government; the said Court shall be vested with civil jurisdiction over all the territories subordinate to the Presidency of Bombay, in which the Code of Regulations has operation by enactment, and shall in the exercise of such jurisdiction be denominated "*Suddur Dewannee Adawlut*."

Constitution of the Suddur Adawlut and its Civil designation.

Section V.—Clause 1st.—It shall be the duty of the Suddur Dewannee Adawlut to hear and determine appeals against decrees and orders passed in the Zilla Courts, and in certain cases to enforce the hearing of suits and complaints by such Courts, to enjoin an adherence to forms of proceeding prescribed by the Regulations when neglected or infringed, and to give such directions, with respect to forms not provided for by the Regulations, as it may deem expedient :

Court to receive appeals and revise and rectify the proceedings of inferior tribunals:

Clause 2nd.—It shall also be competent to the said Court to call for the proceedings of any subordinate Civil Court, and to issue such orders thereon as the case may require.

also to call for and regulate such proceedings.

[The High Court can under this section revise (1) a decision by a Subordinate Court on a question of valuation for determining the amount of Court Fee. *Vithal v. Balkrishna*, I. L. R. 10 Bom., 610; (2) an order rejecting a plaint because the document relied on by the plaintiff is not produced with it, *Ex-parte* Raychand, 2 B. H. C. R., 369. But it will not interfere where a summary procedure is laid down, and the law gives no appeal to the High Court or when interference would work injustice. *Ex-parte* Dharamdas, 3 B. H. C. R., A. C. J., 104, and *Narayanbhai v. Ganga Krishna*, 4 B. H. C. R., A. C. J.,

87. It has consistently refused to interfere except in cases which disclose some grave and patent error not otherwise to be remedied. *Mahadaji v. Sonu*, 9 B. H. C. R. 249.]

To remark and report misconduct of Judges and their assistants.

Section VI.—Clause 1st.—It shall further be the duty of the Suddur Dewarnee Adawlut to examine into, and point out and remark on, and, if necessary, report to the Governor in Council any acts of negligence or misconduct on the part of the Zilla Judge or any other covenanted servant employed in a Court of civil justice.

To try cases of misconduct of native officers of Court,

Clause 2nd.—To investigate charges of negligence or misconduct preferred against any native officer of the Court, or to refer the charges to one or more of its members for the purpose, and, if considered advisable, to employ against such officer the powers vested in it for his suspension or dismissal :

or to direct the Judge on Circuit to try them :

Clause 3rd.—To direct the Judge on circuit to investigate all similar charges preferred against any Kasee, Commissioner for deciding civil suits, or pleader, or against any law officer ; and, if the report of the Judge on circuit convince the Suddur Adawlut that the alleged offence has been committed, to report, in the case of a Kasee, the circumstances to Government, and in the case of any other of the above mentioned officers, to employ against the individual accused the power vested in it for his suspension or dismissal :

the complainant having applied in vain to the Zilla Judge.

Clause 4th.—But, before any measures be adopted as authorized in the preceding clauses, the person preferring the complaint (if the case shall not have been received from the Zilla Judge) shall make oath, that he applied in the first instance to the Judge of the Zilla to which the offender belonged and failed to procure redress ; and, if the Judge on circuit shall discover during the investigation that such application was not made or that it was made and met with suitable attention, he shall cease from further proceedings and acquaint the Suddur Adawlut of the same.

[Clauses 3 and 4 so far as they apply to Jaw officers and Kasees are repealed by Bombay Act IV of 1864, s. 1.]

CHAPTER II.

OF ZILLA COURTS, INCLUSIVE OF THE SUBSIDIARY COURTS OF THE ASSISTANT JUDGES.

[The whole of this chapter (as. 16-33) has been repealed, except the portion of s. 21 printed below, by Act XIV. of 1869, s. 2.]

Jurisdiction of the Court in regard to the receiving of suits.

Section XXI.—Clause 1st.—No interference on the part of the Court in caste questions is hereby warranted, beyond the admission and trial of any suit instituted for the recovery of damages, on account of an alleged injury to the caste and character of the plaintiff, arising from some illegal act or unjustifiable conduct of the other party.

[See Section 11 of Act XIV of 1882. Sections 21, 47 to 54 and 56 are in force throughout the whole of the territories subject to the Government of the Governor of Bombay in Council at the date of the passing of Act XV of 1874 except the Scheduled Districts subject to such Government. See Section 5, Act XV of 1874.]

Caste-question.—A claim to be Chalvadi of the Lingayat caste, the duty of the office being to carry the insignia of the caste at public ceremonials without any right to levy fees or receive salary, is a caste-question ; also a claim for fees claimed as Mehtars of the Dhed caste on a marriage, *Shankara v. Hanma*, 1. L. R., 2 Bom., 470 ; also a claim by, seceders from a caste for recovery of half of the property belonging to the caste, *Girdhar v. Kalya*, 1. L. R., 5 Bom., 83, *Nemchand v. Savaichand*, Ibid, p. 84. A claim to a caste office and to be entitled to perform the honorary duties of that office or to enjoy privileges

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and honors at the hands of the members of the caste in virtue of that office is a caste question; and the same rule ought to apply when there are fees appertaining to the office, the question to be decided in such cases being, would the taking cognizance of the matter in dispute be an interference with the autonomy of the caste. *Morari v. Suba*, I. L. R., 6 Bom., 725. Depriving a plaintiff of *Mānpān* gives no cause of action, *Raghunath v. Janardan*, I. L. R., 15 Bom., 610. A suit to re-admit a member to participation in caste communication and privileges is a caste question *Narotam v. Mithalal*, 1878, P. J., 235; also a claim by a headman of a caste, to be entitled to the disposal of money paid according to the custom of the caste, to the Panch, on marriages, and brought against a member of Panch to recover money paid to him in accordance with that custom. *Dodhana v. Khemchand*, 1882, P. J., 377.

Not a caste question.—A suit, however, to be allowed the use of certain cooking utensils for a caste purpose is not a caste question, *Dullabh v. Narayen*, 4 B. H. C. R., A. C. J., 110; also a claim by a Khot for damages by reason of the defendant having wrongfully received coconuts and betel leaves and a marriage fee from a man of the Bhandari caste and thereby infringed the customary rights or appurtenance to the plaintiff's office of khot, *Aba v. Denji*, 1884, P. J., 297; also a suit to recover money wrongfully taken by the defendant appertaining to the office of *aya*, although the caste may have the right of appointing the *aya*, *Gurusangaya v. Tamana*, 1891, P. J., 201; see *Kumarswami v. Gurubasavswami*, id. 334. A dispute as to the right to an office of *khatib* or preacher is not a caste question within s. 21; nor does the section apply to suits between Mahomedans, *Sayad Hashim Sahab v. Hussinsha*, I. L. R., 13 Bom., 429. The right of exclusive worship of an idol at a particular place set up by a caste is not a caste question. The meaning of s. 21 is that the internal economy of a caste is not to be interfered with, not that no possible matter of litigation in which a question of caste usage, or right, or privilege, may arise can be taken cognizance of. *Anandran v. Sankar*, I. L. R., 7 Bom., 323.

S. 21 does not say that a Civil Court is not to take cognizance of any case in which a question of a caste rule or of membership of a caste may be raised by way of answer to a claim for property or on a breach of contract. To take evidence of the customary law of a caste, to recognize the law and the vote of a majority as given effect to by the law, is not to interfere in caste questions; it is simply to recognize the existence of castes as corporations with civil rights and an autonomy suitable to the purposes of their existence. But a Court will not allow one member or six to take possession of all the club plate on a mere assertion that they had as good a right to it as any one else. Where, therefore, certain members borrowed vessels and then seceding to the other division refused to return them, *held* that borrowers could not escape liability under their contract of loan, merely because an incidental question of the relation of the divisions and of the members under the terms of incorporation might arise for decision; and that, as castes are capable of property, they are entitled to protection in its enjoyment. *Pragji v. Govind*, I. L. R., 11 Bom., 534.

The High Court on the Original Side has always felt itself bound by this Regulation or rather by the principle which underlies it. As long as a caste in passing a rule confines its enforcement to social caste sanctions and does not deprive a man of property or legal rights, it is a caste question. The Courts in the Mofussil are prohibited by legislation from interfering in such questions by this Regulation. *Raghunath v. Janardhan*, I. L. R., 15 Bom., 610.]

CHAPTERS III, IV AND V. (ss. 34-46).

[Repealed by Acts X. of 1861, s. 1 and 14 of 1869, s. 2.]

CHAPTER VI.

OF PLEADERS.

Section XLVII.—Clause 1st.—Natives or others may be authorized to practise in each court as pleaders (Vakeels) in behalf of Authorized pleaders to hold Sunnuds.

parties in any judicial proceeding, being qualified by sunnud, according to the rules in the succeeding section.

And to act in all suits where the parties or their recognized Agents do not appear.

Pleader for Government may hold a general vakálatnáma.

Clause 2nd.—No person shall be allowed to act in any such proceeding except such pleaders, or the parties themselves or their recognized agents.

Clause 3rd.—[Repealed by Act I of 1846, s. 3.]

Clause 4th.—In matters to which Government is a party, it shall be lawful for a pleader to act on a general vakálatnáma, to be issued by the officer under whose control the said matters are conducted, provided a duplicate be deposited in the zilla court of the district in which he practises.

[Printed as amended by Act XII of 1873. This section has not been repealed by any of the provisions of the Civil Procedure Code, 1882. In *re* the Pleaders of the High Court I. L. R., 8 Bom., 135. See Note to s. 21. Compare s. 36, Act XIV of 1882.]

Number of pleaders to be unlimited,

Section XLVIII.—Clause 1st.—The number of pleaders shall not be limited, but any person duly qualified and of unexceptionable character, shall be entitled to a sunnud of appointment.

Clause 2nd.—[Repealed by Act I of 1846, s. 3.]

and their sunnuds issued.

Clause 3rd.—Each pleader, on being found qualified, shall be furnished with a sunnud under the seal of the court of Suddur Dewannee Adawlut, in the form of appendix J.

[See note to s. 21. See Act I of 1846, s. 4.]

The practice of pleaders how regulated.

Section XLIX.—The pleaders in the Zilla Courts shall practise each in such particular Court or Courts as may be assigned to them by the Zilla Judge, or indiscriminately in all the Courts of the respective Zilla if it be not found necessary to appropriate the pleaders to particular Courts.

[See note to s. 21.]

On appearing in a suit the pleader must file a vakálatnáma.

• *Section L.—Clause 1st.*—A pleader shall not be allowed to act in any suit or proceeding until he has obtained from the party, and filed in Court, a power-of-attorney (vakálatnáma), according to the form contained in appendix K, appointing him pleader in the cause.

Retaining fee to be paid by the party engaging a pleader.

Clause 2nd.—If a party engages a pleader to act in his behalf, he shall present him with eight annas as a retaining fee, for which the pleader shall grant him a written acknowledgment, specifying the date of payment, and if the said retaining fee be not offered, the pleader shall demand it, and abstain from all proceeding until it be delivered.

After receipt of which the pleader must perform his engagement.

Clause 3rd.—If, after receiving the retaining fee, a pleader shall engage with, or act for, the other party, or refuse or omit to act on behalf of his client, he may be punished by a fine not exceeding 500 rupees, or, if the matter in litigation be less than 250 rupees, then not

exceeding twice the amount of the sum in dispute between the parties; or, if the circumstances are of an aggravated nature, may be suspended or dismissed under the rules contained in Section LVI of this Regulation. Penalty in case of misconduct.

[Pleaders receive certain fees in return for which they are not at liberty to act against those retaining them, whether they are retained by one client singly or by two or more persons jointly. *Palanji v. Kalabhai*, I. L. R., 12 Bom., 85.]

Clause 4th.—The fine may be inflicted by the Court in which the suit relative to which the failure of duty occurred may be pending. To be enforced by the Court in which the suit is pending.

[Cl. 4 is printed as amended by Act XII of 1873, s. 1. See note to s. 21. See ss. 7, 8, 10 and 12 of Act I of 1846.]

Section LI.—*Clause 1st.*—[Repealed by Act No. X of 1861, §. 1.]

Clause 2nd.—It shall be incumbent on a pleader, at the time of receiving any accounts, writings or documents from his client, to give a written receipt for them, and to restore them when required, under penalty of a fine not exceeding 100 rupees, to be levied under the rules contained in the last clause of the preceding section or, if the circumstances be of an aggravated nature, of suspension or dismission, according to Section LVI of this Regulation. Must pass receipts to his client for papers which he must return when required: penalty in case of misconduct.

[See note to s. 21.]

Section LII.—*Clause 1st.*—Each pleader employed in prosecuting or defending an original suit shall be entitled to a percentage on the amount sued for, according to the rates specified in appendix L as a remuneration for his trouble in acting in behalf of his client, until the decree in the suit is passed, and thereafter until such decree is fulfilled. Established fees of pleaders in original suits.

Clause 2nd.—The remuneration to a pleader employed in prosecuting or defending an appeal, regular or special, shall be the same as is above prescribed in the case of an original suit. And in appeals.

[A pleader is not entitled to a fresh fee when a suit is remanded in appeal for retrial. *Bai Jhaver v. The Sub-Collector of Broach*, 1874, P. J., p. 67. These provisions and those of Act I of 1846, Sec. 7, relate only as to costs between party and party. *Ganji v. Sitaram*, 9 B. H. C. R., 33.]

Clause 3rd.—The above rules shall not prevent an express agreement being entered into between pleader and client, for either a larger or smaller sum than the established fee. Unless otherwise settled by private agreement.

Clause 4th.—But, if a larger sum than was agreed for between a pleader and client is awarded in costs against the other party, the pleader, notwithstanding his agreement with his own client, shall be entitled to the excess when recovered. But if more is decreed by way of reimbursement than was agreed to be paid to the pleader, the pleader shall have the excess.

[This Section is modified by Act I of 1846, ss. 6 and 7. See note to s. 21.]

Clause 5th.—[Repealed by Act XII of 1873, s. 1.]

Section LIII.—*Clause 1st.*—[Repealed by Act XII of 1873, s. 1.]

More pleader than one may be engaged, but without prejudice to the opposite party.

The client may cancel his vakalatnāma; but a pleader cannot abandon his client without the client's consent or order of the Court.

Pleader's unavoidable absence to be reported to the Court which will direct the requisite measures.

Punishing negligence.

In the event of the pleader's permanent absence or death (proceedings to be stayed.)

Pleaders how liable to suspension or dismissal without prejudice to private actions against them for damages.

Clause 2nd.—Either party may engage two or more pleaders to conduct his suit or defence, but the party found liable in costs will not be answerable for more than the established fee of one pleader on behalf of the other party.

Clause 3rd.—It shall be competent to a party at any time to withdraw the authority vested in a pleader to act in his behalf, on giving the Court notice in writing to that effect; but it shall not be competent to a pleader to withdraw from acting in behalf of his client without his consent or the special permission of the Court.

[See note to S. 21.]

Clause 4th.—[Repealed by Act XII of 1873, s. 1.]

Section LIV.—*Clause 1st.*—If a pleader is unable to attend the Court in consequence of indisposition or other necessary cause, he shall notify the same to the Court in writing, in which case proceeding in the suit shall be stayed for such time as the Court deems reasonable, to enable the party to transfer by endorsement or otherwise, his power of attorney (either temporarily or until the suit is determined) to another pleader; and any pleader absenting himself without written notice as above prescribed may be punished by fine not exceeding rupees 100 to be adjudged by the Court in which the failure of duty occurred, and levied as the amount of a decree by the same.

Clause 2nd.—In case of the resignation, dismissal or death of a pleader, proceedings in the suit shall in like manner be stayed.

[Printed as amended by Act XII of 1873 s. 1. See note to s. 21. A pleader need not obtain leave unless engaged in business which cannot be transacted in his absence. When therefore there are two pleaders engaged on the same side in a cause, and one of them attends to it, the other, if absent without leave, cannot be fined. In *re Vinayek*, C. R. 3rd August 1871. When a pleader writes a letter saying that headache prevents his attending in Court, it must be assumed that it is of such a nature as to justify his absence. *Raghoba v. Rama*, 1885, P. J., p. 84. When a pleader throws up a case at the eleventh hour and the client is unable to conduct his own case or find a substitute, the proceeding ought to be stayed in the interests of justice, although no postponement is asked for by the client. *Naru v. Bayaji*, 1890, P. J., p. 81.]

All pleaders holding sanads for a district may appear, plead and act in any Court of Small Causes within the same district. The provisions on the subject of pleaders in other Courts contained in Regulation II of 1827, Chapter VI., and Act I. of 1846 shall, so far as they are still in force and may be applicable, extend to pleaders practising in Courts of Small Causes under this rule. 1889, G. G., p. 347.]

Section LV.—[Repealed by Act 1 of 1846, s. 3.]

Section LVI.—A pleader accused of a criminal offence, or guilty of misbehaviour or neglect of duty, shall be liable to be suspended or dismissed under the rules regarding Commissioners, contained in the third clause of Section XXXVIII of this Regulation; but nothing herein contained shall prevent a party from instituting an action for damages against his pleader, when he may consider himself injured by his acts or omissions.

[See note to s. 21. s. 38, cl. 3, repealed by Act XIV of 1869, ran as follows:

"A commission may be annulled by order of Government to the Suddur Dewannee Adawlut, on by the authority of that Court, on report being made to Government: the annulling order shall be executed through the medium of the Zilla Judge, on precept addressed to him by the Suddur Dewannee Adawlut: commissioners may also, for misbehaviour or neglect of duty, be suspended from official employment and emolument by the Zilla Judge, but such suspension shall be reported to the Suddur Dewannee Adawlut, and if the period of suspension exceed two months, the case shall be referred to the Suddur Dewannee Adawlut for its final orders, which shall further decide on the commissioner's eventual restoration or dismissal; commissioners shall also be subject to the prosecution and penalties specified in Section XXXVI for the offences therein recited."

Appendices, A, D, E, F, G, H.— [*Repealed by Act XII of 1876, s. 1.*]

Appendix B.— [*Repealed by Act X of 1873, s. 2.*]

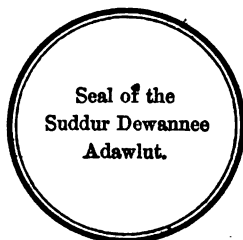
Appendix C.— [*Repealed by Act XII of 1873, s. 1.*]

Appendix I.— [*Repealed by Bombay Act VI of 1866, s. 1.*]

APPENDIX J.

(See Section XLVIII, Clause 3rd).

Form of Sunnud granted to a Pleader.



To A. B., inhabitant of——.

In conformity with the provisions of Regulation II., A. D. 1827, you A. B., are hereby appointed to the office of Pleader in the Court of——: you will not be liable to be removed from your situation during your good behaviour, while you discharge your duty with zeal and integrity under the rules contained in the Regulations which now are or hereafter may be in force.

By order of the Suddur Dewannee Adawlut.

(Signed) By the Registrar.

APPENDIX K.

(See Section L, Clause 1st.)

Form of Power of Attorney to enable a pleader to act in a suit.

In the Court of _____.

Suit for Rs. _____.

_____ Plaintiff,

against

_____ Defendant.

I _____ plaintiff (or defendant, as the case may be) do hereby authorize _____ to appear and act as pleader for me in the above suit.

Witness my hand, this _____ day of _____, 18____.

(Signed) or (the mark of)
The Plaintiff.
or
Defendant.

APPENDIX L.

(See Section LII, Clause 1st.)

Statement shewing the fees to which pleaders are entitled for acting throughout ordinary suits when there is no specific agreement.

The pleader's fee is	In suits for not more than Rupees 2,000	3 per cent.
	In suits for from Rupees 2,000 to 10,000 inclusive, on Rupees 2,000 as above, and on the remainder	2 per cent.
	In suits for from Rupees 10,000 to 20,000 inclusive, on Rupees 10,000 as above, and on the remainder	1 per cent.
	In suits for more than Rupees 20,000 on that sum as above, and on the remainder.	$\frac{1}{2}$ per cent.

REGULATION IV A. D. 1827.

A REGULATION *prescribing the forms of proceeding of the Courts of law in civil suits and appeals, and rules for the trial of the same.*—PASSED by the Governor in Council on the 1st January 1827, corresponding with the 4th Poush Sood Sumbut or Vikramajeet Era 1883, Salbahan 1748, and 2nd Jummadyool Akhir 1242 of the Hijree.

Preamble.—[Repealed by Act XIV of 1869, s. 2.]

Sections I to XXIII.—[Repealed by Act X of 1861, s. 1.]

Section XXIV.—[Repealed by Act XIV of 1869, s. 2.]

Section XXV.—[Repealed by Act X of 1861, s. 1.]

Section XXVI.—The law to be observed in the trial of suits shall be Acts of Parliament and Regulations of Government applicable to the case; in the absence of such Acts and Regulations, the usage of the country in which the suit arose; if none such appears, the law of the defendant, and in the absence of specific law and usage, justice, equity and good conscience alone.

The law to be followed by the Court to be Acts of Parliament, Regulations of Government, custom of the country, law of the defendant, and justice.

[S. 26 is in force throughout the whole of the territories subject to the government of the Governor of Bombay in Council at the date of the passing of Act XV of 1874, except the Scheduled Districts subject to such government. See Sec. 5, Act XV of 1874.]

The rest of the Regulation is repealed by Acts X of 1861, XVII of 1862, XIV of 1869, VI of 1874 and Bom. Act V of 1879.

“Usage of the Country.” The practice for the eldest member of Patilki family to officiate is not the usage of a single family, but of a large number of families forming an important part of a community, and such a custom, if clearly proved, may well be regarded as part of the “usage of the country.” *Sanganbasapa v. Sangapa*, 1879, P. J., p. 257.

“Justice, equity and good conscience.” The English Law is confined within the Charters of the Supreme Courts, and is not the law in the Mofussil. In determining a case, however, the Mofussil Courts, in proceeding according to justice, equity and good conscience should be guided by the principles of English law applicable to a similar state of circumstances, *Dada v. Babaji* and *Webbe v. Lester*, 2 B. H. C. R. pp. 36 and 52; but are not to apply rules of English law, which are so special in their nature and origin as to be inapplicable to the different circumstances of this country. The law applicable to the Parsis in the Mofussil in the absence of specific law or usage is justice, equity and good conscience. *Mithibai v. Limji*, I. L. R., 5 Bom., 506.]

REGULATION V A.D. 1827.

A REGULATION containing rules of judication respecting written acknowledgments of debts executed without receipt of a full consideration, also regarding the tendering payment of debts and the disposal of property mortgaged or pledged.—PASSED by the Governor in Council on the 1st January 1827, corresponding with the 4th Poush Sood Sumbut or Vikramajeet Era 1883, Salbahan 1748, and 2nd Jummadyool Akhir 1242, of the Hijree.

[Printed as amended by Act XII of 1876.]

Preamble.

WHEREAS justice, the interests of trade, and the easy and secure transaction of money-dealings require that the effect of written acknowledgments of debts, when the receipt of a full consideration is contested, should be defined and made known, and that certain provisions should be framed for determining the effects of tenders of payment, and the rights of parties concerned in property mortgaged or pledged, the following rules have therefore been enacted :

[The preamble and ss. 9, 14 and 15 are in force throughout the whole of the territories subject to the government of the Governor of Bombay in Council at the date of the passing of Act XV of 1874, except the Scheduled Districts subject to such government. S. 5 of Act XV of 1874. The preamble is printed as amended by Act XII of 1873.]

CHAPTER I.—(ss. 1-8)—[Repealed by Act IX of 1871, s. 2.]

CHAPTER II.

OF ACKNOWLEDGMENTS OF DEBTS EXECUTED WITHOUT RECEIPT OF A FULL CONSIDERATION IN VALUE.

Writings, in cases of debt not full proof of the amount if contrary proof is advanced.

Section IX.—Clause 1st.—Written acknowledgments of debt in any shape shall not be held conclusive in a Court of law as to the amount, if the defendant show that a full consideration has not been received.

[S. 9, Cl. 1st is repealed so far as regards any suit to which s. 12 of Act XVII of 1879 applies. See s. 12 of Act XVII of 1879, and 1885, P. J., p. 228.]

Where the plaintiff relied on a *Samadashat* to recover money lent, held that the onus lay on the defendant to show that a full consideration was not received. *Moti v. Dipchand*, 5 B. H. C. R., A. C. J., 81.]

And in certain cases if merely contested by the defendant.

Clause 2nd.—And in the case of a cultivator of the soil, sued upon a written acknowledgment executed at a place, which was not at the time of such execution under British jurisdiction, if the circumstances are such as to convince the Court that the creditor might reasonably be expected to possess other proof of the amount besides such written acknowledgment (the consideration received for the same being contested), then the said writing shall not be held

conclusive as to the amount, whether the defendant prove a deficiency in the consideration or not, but the Court shall pass a decree for only such amount as the claimant may otherwise prove to be due.

CHAPTER III., (SS. 10-13).—[Repealed by Acts XXVIII of 1855 and XII of 1873.]

[S. 12 is not in force. That section was repealed by s. 1 of Act XXVIII of 1855, and although the latter section was repealed by Act XIV. of 1870, the former was not revived, there being no such provision in the Act of 1870 as required by the General Clauses Act of 1868, s. 8. *Hari v. Balambhat*, I. L. R. 9 Bom. 233.]

CHAPTER IV.

HOW A CLAIM TO INTEREST IS AFFECTED BY TENDER OF PAYMENT.

Section XIV.—If a debtor can prove that he has tendered to a creditor, the whole, or any portion of the amount due, all further interest shall cease on the amount tendered. Interest ends upon a tender made.

CHAPTER V.

OF THE DISPOSAL OF PROPERTY MORTGAGED OR PLEDGED.

Section XV.—Clause 1st.—When a creditor is placed in possession of property by mortgage or otherwise, as security for a debt, his claim over such property shall, in the absence of other special agreement, constitute his sole security for payment of the debt, or such part of it, as the said property may have been given in security for, and interest thereon is to be considered as included in the said security. Mortgaged property, if not otherwise agreed, is sole security for the debt, principal and interest.

Clause 2nd.—If the property yield profit, and no stipulation has been made respecting the disposal of the said profit, or payment of interest on the debt, the profit shall be considered as equivalent for the interest. Any profit from such property in such case to be reckoned in lieu of interest.

Clause 3rd.—In the absence of any special agreement, or recognized law or usage to the contrary, either party may, at any time, by the institution of a civil suit, cause the property to be applied to the liquidation of the debt; the surplus, if any, being restored to the owner. Either party, unless otherwise agreed, may cause the debt to be defrayed from the property.

[Chapter V., s. 15, stands repealed where Act IV of 1882 has been extended. See s. 2 of Act IV of 1882. Act IV of 1882, as amended by Act III of 1885, has been extended to the whole of the territories, other than the scheduled districts, under the administration of the Government of Bombay with effect on and from the 1st January 1893.—1892, G. G., 1071.]

L mortgaged certain lands to *D* in 1847 for 150 rupees, carrying interest at 27 per cent., and *M* became surety for him; it was agreed that if *L* did not pay the money when demanded by *D*, *M* should pay it, and having thus redeemed the land, take possession of it. In 1876, the mortgagee having demanded the money, *M* paid to him Rs. 400, that were found due and took possession of the land. In a suit brought by *L* against *M* for redemption, it was argued on behalf of *L* that, as *L* was an agriculturist, accounts should

be taken from the date of the mortgage under sec. 13 of Act XVII of 1879, and that if only 12 per cent. interest was allowed, less than 400 rupees would be found due on the mortgage in 1876; that of the 400 rupees, only 150 rupees represented the principal money, and the rest accumulations of interest, and so no interest should be allowed on the latter, that as *M* subrogated into the rights of creditor, and there was no provision in the deed for making rests, and as nothing was agreed about interest between plaintiff and defendant, under Reg. V of 1827, sec. 15, profits should be set-off against the interest. *Held*, that *M* was not a transferee of the mortgage, that the "transaction" between *L* and *M*, within the contemplation of sec. 12 of Act XVII of 1879, and under which *M* claims to hold the land, arises out of the implied agreement at the time of the mortgage, that *L* would indemnify *M* for whatever sum he might have to pay as surety; that the property, therefore, remained with *M* as a security for the entire sum of Rs. 400 and interest, and that Reg. V of 1827 was not applicable to a case of principal and surety. *Lakshman v. Malhar*, 1886, P. J., p. 191.

By a registered mortgage deed the defendant mortgaged certain lands to the plaintiff with possession. No personal undertaking was given to pay. The lands were sold by the revenue authorities for arrears of assessment due from the defendant for certain other lands of his. The plaintiff sued to recover the debt personally from the defendant. *Held*, that there is no rule of law which required the mortgagee to incur expense to save the mortgaged property from a paramount title, that the mortgagee's security, therefore, came to an end by default of the mortgagor; that under these circumstances s. 15 did not apply; and that, the consideration having failed, the debt at once became recoverable by the plaintiff. *Saraba v. Abeji*, I. L. R., 11 Bom., 475.]

Appendix A.—[Repealed by Act XII of 1873, s. 1.]

Appendix B.—[Not printed, as it seems to have been impliedly repealed by the repeal of s. 13, the only place where it has been referred to.] *Expressly repealed by Act IV of '94*

REGULATION VIII OF 1827.

A REGULATION to provide for the formal recognition of heirs, executors, and administrators, and for the appointment of administrators, and managers of property by the Courts.—PASSED by the Governor in Council on the 1st of January, 1827, corresponding with the 4th Poush Sood Sumbut or Vikramajeet Era 1883, Salbahan 1748, and 2nd Jummadyool Akhir 1242 of the Hijree.

[This regulation is in force throughout the whole of the territories subject to the government of the Governor of Bombay in Council at the date of the passing of Act XV of 1874, except the Scheduled Districts subject to such government. It is, however, in force in the province of Sind though a Scheduled District. See Bom. Act XII of 1866, s. 12, and Act XV of 1874, s. 5 and Clause (c) of s. 8.

This regulation is modified by ss. 4 and 28 of Act VII of 1889.

A grant of probate or letters of administration under Act V of 1881 in respect of any property supersedes any certificate previously granted in respect of the same property under this Regulation. See Act V of 1881, s. 152.

A plaintiff suing as heir of a deceased person is, where a certificate of heirship is necessary to enable him to sue, bound to produce the certificate itself. It is not enough for the heir to show that an order has been made directing the issue of a certificate. *Mulchand v. Motichand*, 9 B. H. C. R., 37.

Bom. Reg. VIII of 1827 does not contemplate the appointment of a Collector as the administrator of the estate of a deceased person in his official capacity as Collector in

the same manner as Act XX of 1864 does. If a Collector, originally appointed under the Regulation, is succeeded by another Collector, the latter would not be warranted in acting as administrator of the deceased without a revocation of the grant to the former Collector and a fresh appointment of his successor as administrator. A Subordinate Judge has jurisdiction to entertain a suit against a Collector appointed an administrator under the Regulation. *Gosai Hiragar v. Ranchhode*, 1880, P. J., §20.

A certificate of heirship cannot be granted to a minor under this Regulation. *Bai Baiba v. Bai Daguba*, I. L. R., 6 Bom., 728.]

WHEREAS, at the same time that it is in general desirable that the heirs, executors, or legal administrators of persons deceased should, unless their right is disputed, be allowed to assume the management, or sue for the recovery of property belonging to the estate, without the interference of Courts of Justice, it is yet in some cases necessary or convenient that such heirs, executors, or administrators, in order to give confidence to persons in possession of, or indebted to the estate, to acknowledge and deal with them, should obtain a certificate of heirship, executorship, or administratorship from the Zilla Court ;

And whereas, whenever there is no person on the spot, entitled, or willing to take charge of the property of a person deceased, or, when the right of succession is disputed between two or more claimants, none of whom has taken possession ; or, where the heirs are incompetent to the management of their affairs, and have no near relations entitled, and willing to take charge on their behalf ; or, where a person possessed of property dies intestate, and without known heirs ; it is essential, that the Zilla Court should appoint an administrator, for the management of the estate ; the following rules are therefore enacted.

[The Preamble is printed as amended by Act XII of 1873.]

CHAPTER I.

RULES FOR THE RECOGNITION OF HEIRS, EXECUTORS AND ADMINISTRATORS, WHEN THERE IS A COMPETENT CLAIMANT.

Section I.—Whenever a person dies, leaving property, whether moveable or immoveable, the heir or executor, or legal administrator may assume the management, or sue for the recovery of the property, in conformity with law, or usage applicable to the disposal of the said property, without making any previous application to the Court to be formally recognized.

The Legal heir, &c., of a person deceased is competent to represent him, without recognition from the Court.

Section II.—*Clause 1st.*—But, if any heir, executor, or administrator, is desirous of having his right formally recognized by the Court, for the purpose of rendering it more safe for persons in possession of, or indebted to the estate, to acknowledge and deal with him, the judge on application, shall issue a proclamation in the form contained in appendix A, inviting all persons, who dispute the right of the appli-

But if such recognition is requested.

a proclama-
tion will be
issued.

cant, to appear in the Court within one month from the date of the proclamation, and enter their objections and declaring that, if no sufficient objection is offered, the Judge will proceed to receive proof of the right of the applicant, and if satisfied, grant him a certificate of heirship, executorship, or administratorship.

Clause 2nd.—[Repealed by Act No. XII of 1873, s. 1.]

[A separate certificate under Bom. Reg. VIII of 1827 is necessary, obtained in each district where the estate of a deceased person may be, for the purpose of enabling its holder to deal with the estate in that district. *Hayad Bibi v. Turabai*, 1875, P. J., 71.]

A Subordinate Judge who, under section 26 of Act VII of 1889, has been invested by Government with the functions of a District Court under that Act has jurisdiction to hear and determine an application made under section 2 of this Regulation. *Pitamber v. Ishvar*, I. L. R., 17 Bom., 230.

A certificate of heirship under Reg. VIII of 1827 is not even *prima facie* evidence that the holder of it is the rightful heir of the deceased. The effect of such certificate is merely to give security to persons in possession of, or indebted to, the estate of the deceased, in dealing with such holder as the legal representative of the deceased. *Shripat Ramchandra v. Vithoji*, 4 B. H. C. R., A. C. J., 178.

Though a certificate of heirship may not even be *prima facie* evidence of title when the question is between two rival claimants to the heirship, or persons claiming through them, it is conclusive as against third persons who are in possession of the property of the deceased. *Abaji v. Ramchandra*, 1884, P. J., 149.

A certificate of heirship, granted under Reg. VIII of 1827, does not relate back to the death of the deceased, so as to prevent an alleged debtor from showing that he made a valid payment to another person who was actually the heir at the time of the payment; and a defendant who is sued by the holder of a certificate of heirship of a deceased Hindu, for a debt due to the deceased, may, therefore, show that he has paid the debt he owed to the deceased to any person, who as heir, or executor, or legal administrator, was, at the time of such payment, actually entitled to receive it. It will not, however, be sufficient for such defendant to show that he paid his debt to a person whom he *bona fide* believed to be such heir, &c. *Purshotam v. Ranchod*, 8 B. H. C. R., A. C. J., 152.

A Subordinate Judge, invested under s. 26 of Act VII of 1889 with the functions of a District Court under the Act, can hear and determine an application made under this section. Section 28 of Act VII of 1889 is distinctly applicable to such cases. *Pitamber v. Ishvar*, 1892, P. J., 110.]

And if no
objection ap-
pears, the
recognition
will be grant-
ed.

Section III.—If, at the expiration of the time mentioned in the proclamation, no sufficient objection has been made, the Court shall forthwith receive such proof as may be offered, of the right of the person making the claim; and if satisfied, shall grant a certificate in the form contained in appendix B, declaring him the recognized heir, executor, or administrator of the deceased.

[See note to s. 2.]

If an objec-
tion appears,
the same to
be examined;

Section IV.—*Clause 1st.*—If, before the expiration of the time, any objection is made to the right of the person claiming as heir, executor, or administrator, the Judge, on a day to be fixed, (of which at least eight days' previous notice shall be given to the parties) shall summarily investigate the grounds of the objections on the one hand, and of the right claimed on the other, examining such witnesses, or other evidence as may be adduced by the parties, and either grant or refuse a certificate, as the circumstances of the case may require.

and the re-
cognition
given or
refused ac-
cordingly.

Clause 2nd.—But if, from the evidence adduced, it appears, that the question at issue between the parties is of a complicated, or difficult nature, the Judge may suspend proceedings in the application for a certificate, until the question has been tried by a regular suit, instituted by one of the parties.

Unless the question is complicated or difficult, when the matter must be left for regular adjudication.

[A Judge acting under cl. 2 of sec. 4 of Reg. VIII of 1827, and referring the parties to a regular suit, cannot give the certificate of heirship to any of the rival applicants, but must suspend proceedings in the applications of the parties for the certificate till the decision in the regular suit. *Hargovandas v. Bai Jadav*, 1886, P. J., p. 20.]

Section V.—Whenever an executor is formally recognized, under the rule contained in Section IV, the authenticity of the will, if any, by which he is appointed, shall be proved, and the certificate of executorship shall be endorsed thereon.

The authenticity of wills and recognitions how certified.

Section VI.—[Repealed by Act No. XII of 1873, s. 1.]

Section VII.—*Clause 1st.*—An heir, executor, or administrator, holding the proper certificate, may do all acts, and grant all deeds competent to a legal heir, executor, or administrator, and may sue and obtain judgment in any Court, in that capacity.

A recognized heir, &c., is competent to manage property.

Clause 2nd.—But, as the certificate confers no right to the property, but only indicates the person who, for the time being, is in the legal management thereof, the granting of such certificate shall not finally determine, nor injure the rights of any person; and the certificate shall be annulled by the Zilla Court, upon proof, that another person has a preferable right.

But his recognition gives him no title to the property.

Clause 3rd.—An heir, executor, or administrator, holding a certificate, shall be accountable for his acts done in that capacity, to all persons having an interest in the property, in the same manner as if no certificate had been granted.

Nor does it relieve him from responsibility to all claimants.

[See note to s. 2. A certificate of administration, granted under Reg. VIII of 1827, only indicates the person who for the time being is in the legal management of the property in respect of which it is granted but does not constitute the holder thereof a representative of the estate for distributing it amongst his co-sharers. *Keshav v. Narayan*, I. L. R., 14 Bom., 236.

A holder of a certificate of administration under s. 7 is a transferee by law of a decree obtained by the deceased, within the meaning of s. 232 of the Civil Procedure Code 1882, and is competent to apply for execution of such a decree. *Khandarav v. Ganesh*, I. L. R., 11 Bom., 368.]

Section VIII.—The refusal of a certificate by the Judge, shall not finally determine the rights of the person whose application is refused, but it shall still be competent to him to institute a suit, for the purpose of establishing his claim.

Refusal of a recognition no judgment against the claim of the applicant.

[See note to s. 2.]

By sect. 28 of Act VII of 1889, Sect 19 of that act is made applicable to this Regulation also & ∴ an appeal from an order of a District Judge could be made to the H. C. (J & R. 17 Bom 230) (J & R 18 Bom 748)

CHAPTER II.

OF THE APPOINTMENT OF AN ADMINISTRATOR BY THE ZILLA COURT,
WHEN THERE IS NO HEIR, OR EXECUTOR, COMPETENT AND
WILLING TO BE PLACED IN POSSESSION.

When the
heir, &c., is
present but
undeter-
mined, or
incompetent,

the Judge
may appoint
an adminis-
trator,

to be duly ac-
countable
when the
emergency is
at an end,

Section IX.—Whenever there is no person on the spot entitled, and willing, to take charge of the property of a person deceased, where the right of succession is disputed between two or more claimants, none of whom has taken possession; or where the heirs are incompetent to the management of their affairs from infancy, insanity, or other disqualification, and have no near relations entitled, and willing to take charge on their behalf, the Judge, within whose jurisdiction such property is, may appoint an administrator for the management thereof, until the lawful heir, executor, or administrator appears, or the right of succession is determined; or the disqualification of the heir is removed, as the case may be; when the Judge, on being satisfied of the facts, shall direct the administrator in charge, to deliver over the property to such person, with a full account of all receipts and disbursements, during the period of his administration.

[See, as to insanity, Acts 34 and 35 of 1858.]

The words "may appoint" are directory or mandatory and not permissive. *Shri Vishvambhar v. Vasudev*, I. L. R., 13 Bom., 37.

This regulation, unlike Act XXVII of 1860, looks simply to the locality of the assets as the ground of the Court's jurisdiction to grant a certificate of administration. The mere presence of property within a zilla and the circumstances specified in the section are enough for granting a certificate. The authority given to the administrator under this section must be understood to be the same as under section 7. So long as an administrator appointed under this section is not relieved of his office by the Court, his status subsists, and no one else can represent the estate. *Mir Ibrahim Ali Khan v. Ziaulnisa*, I. L. R., 12 Bom., 150 (153-4.)

"Determined" means "finally determined;" *held*, therefore, that so long as the party against whom the decision in the matter of the rival claims was given, had a right of appeal, the order to make over the property to the other claimant is illegal. *Shri Vishvambhar v. Shri Vasudev*, I. L. R., 16 Bom., 708.]

If the heir,
&c., is un-
known an
administra-
tor to be ap-
pointed,

and a procla-
mation issued,

and published,

Section X.—Clause 1st.—Whenever any person dies intestate, and without known heirs, leaving property, the Judge, within whose jurisdiction the property is shall appoint an administrator for the management thereof, and shall issue a proclamation in the form contained in Appendix C, calling upon the heir of the deceased, or any person entitled to receive charge of the property, to attend and prefer his claim.

Clause 2nd.—The proclamation shall be published, and if the deceased was a native of any district or country without the limits of the Court's jurisdiction, and the property is of the value of rupees one thousand (1,000) or upwards, the proclamation shall also be published in the Government newspaper.

[This clause is printed as amended by Act XII of 1873, s. 1.]

Clause 3rd.—If any person appears and satisfies the Judge, of his right to the possession of the property, or any part of it as heir, executor, administrator, or otherwise, it shall be delivered up to him after deducting the necessary expenses of management.

[Property to which section 10 of Reg. VIII of 1827 applies must be delivered to a person who satisfies the Judge of his right to its possession. Demand of security from him is not warranted by law. In re application of Shrimat Niranjan Murgya Rajendra Swami Savasthan Chitraculdurga. 1888, P. J., p. 15.]

Clause 4th.—But if no person appears and establishes his right, the Judge, on the 31st December, next after the completion of twelve months from the appointment of the administrator, shall make a report of the circumstances of the case to the Suddur Dewannee Adawlut accompanied by an inventory and valuation of the property; and it shall be lawful for the Suddur Dewannee Adawlut either to direct the property to continue for a further period, under the management of the administrator, or to be sold by him, under the authority of the Court, and the proceeds to be deposited in the public treasury, for the eventual benefit of all concerned.

[See ss. 57-60 of Bom. Act IV of 1890; see clauses 173 to 180 of the Civil Circulars, pp. 399, 400 and 409 of the High Court Rule Book, 1892.]

Section XI.—Whenever an administrator is appointed by the Judge, under Sections IX and X of this Regulation, he shall, previously to entering upon the execution of his office, give security in a sum to be fixed by the Judge for the faithful discharge of his trust, and he shall be entitled to such remuneration as the Judge may fix for his trouble; but subject to modification by the Suddur Dewannee Adawlut on the complaint of any person interested.

APPENDIX A.

Form of Proclamation to be issued, when a person applies to be recognized as Heir, Executor, or Administrator of one deceased.

PROCLAMATION.

IN THE COURT OF THE ZILLA OF _____

WHEREAS *A. B.*, inhabitant of _____, died at _____, on or about the _____ day of _____, and whereas *C. D.*, inhabitant of _____, has presented an application to the Judge of the said zilla, for the purpose of being formally recognized as heir (executor or administrator, as the case may be) of the said *A. B.*, this is to give notice to all persons who may dispute the right of the said *C. D.*, as heir (executor or administrator, as the case may be) of the said *A. B.*, to appear in the Court of the said zilla within one month from the date of this proclamation, there to enter their objections; and it is hereby

declared, that if no sufficient objection is offered before the expiration of that period, the said Judge will forthwith proceed to receive proof of the said C. D.'s right, and to grant him, provided he shall appear entitled thereto, a certificate of heirship (executorship or administratorship, *as the case may be*) of the said A. B., deceased.

Dated at _____ this _____ day of _____

(Signed) By the Judge,
Senior Assistant Judge,
or
Junior Assistant Judge.

APPENDIX B.

Form of certificate to be granted to the recognized Heir, Executor or Administrator of one deceased.

IN THE COURT OF THE ZILLA OF _____

WHEREAS A. B., inhabitant of _____, died at _____ on or about the _____ day of _____, an application was made by C. D., inhabitant of _____ to the Judge of the said Court, to be formally recognized as heir, (executor or administrator, *as the case may be*) of the said A. B., and whereas, the usual proclamation having been issued, no sufficient objection was offered to the right of the said C. D.; and whereas the said C. D., thereupon gave proof, to the satisfaction of the Court, of his right to be recognized as heir, (executor or administrator, *as the case may be*) of the said A. B.

This, therefore, is to certify, that the said C. D. is the recognized heir (executor or administrator) of the said A. B. deceased.

Dated at _____, this _____ day of _____.

(Signed) By the Judge,
Senior Assistant Judge,
or
Junior Assistant Judge.

APPENDIX C.

Form of Proclamation to be issued when a person dies Intestate, and without known Heirs, leaving Property.

PROCLAMATION.

IN THE COURT OF THE ZILLA OF _____

WHEREAS A. B., inhabitant of _____, died at _____, on or about the _____ day of _____, leaving the following property at _____, within

the said zilla, namely, [*here specify the property*]; and whereas no will of the said A. B. has been found, nor is it known if he has any heirs. This is to give notice to all persons claiming to be heirs, or to be entitled to receive charge of the said property, to attend and prefer their claim in the said Court; in order that, on such claim being proved, the said property may be delivered up to them.

Dated at _____, this _____ day of _____.

(Signed) By the Judge,
Senior Assistant Judge,
or
Junior Assistant Judge.

REGULATION XII OF 1827.

A REGULATION for the establishment of a system of Police throughout the Zillas subordinate to Bombay, for providing rules for its administration, and for defining the duties and powers of all Police-authorities and servants.—PASSED by the Governor in Council on the 1st January 1827, corresponding with the 4th Poush Sood Sumbut or Vikramajeet Era 1883, Salbahan 1748, and 2nd Jummadyool Akhir 1242 of the Hijree.

Preamble.—[Repealed by Act XII of 1876, s. 1.]

CHAPTER I.

Section I.—[Repealed by Bom. Act VII of 1867.]

Section II.—[Repealed by Act XVII of 1862.]

Section III.—[Repealed by Act XVII of 1862, Bom. Acts VII of 1867 and II of 1870, and Act X of 1873.]

Section IV.—[Repealed by Bom. Act VII of 1867.]

Section V.—[Repealed by Act XVII of 1862.]

Section VI.—[Repealed by Bom. Act VIII of 1867.]

Sections VII-VIII.—[Repealed by Act XVII of 1862.]

CHAPTER II.

Of the ordinary duties of the Zilla Magistrate.

Section IX.—[Repealed by Act XVII of 1862.]

Section X.—[Repealed by Acts XVII of 1862, and X of 1872.]

Sections XI-XII.—[Repealed by Act XVII of 1862.]

Section XIII.—[Repealed by Act X of 1872.]

Sections XIV-XVIII.—[Repealed by Act XVII of 1862.]

Section XIX.—[Repealed by Act XVII of 1862, and by Bom. Act IV of 1890, ss. 1 and 2; see Aden Laws Regulation II of 1891, s. 2, and XV of 1874, s. 5, and 1892 G. G. 189.]

The Magistrate shall keep standards of weights and measures.

Section XX.—The District Magistrate shall keep standards of such weights and measures as are used in retail-dealings throughout the districts under his charge, and they shall be open to the inspection of any one who may desire to examine them.

[S. 20 is printed as amended by Bom. Act III of 1886.

S. 20, s. 27, Cl. 2, and s. 37, Cls. 1 and 2 are in force throughout the whole of the territories subject to the government of the Governor of Bombay in Council at the date of the passing of Act XV of 1874 except the Scheduled Districts subject to such government. See sec. 5, Act XV of 1874.]

Section XXI.—[Repealed by Act XVII of 1862.]

Section XXII.—[Repealed by Act XVII of 1862 and Bom. Act VIII of 1867.]

Section XXIII.—[Repealed by Act XVII of 1862.]

CHAPTER III.

OF PRECAUTIONARY MEASURES FOR PRESERVING THE PEACE AND PREVENTING CRIME.

Sections XXIV-XXVI.—[Repealed by Act XVII of 1862.]

Section XXVII—Clause 1st.—[Repealed by Act XVII of 1862.]

Restrictions may be resorted to.

Clause 2nd.—But the District Magistrate is not precluded from adopting precautionary measures of a more lenient nature, in the case of a person who may be unable to furnish satisfactory recognizance or security for his attendance, such as, provided the District Magistrate considers them sufficient for the purpose, allowing the party to remain under the inspection of some trustworthy person possessing influence over his conduct, or at some place of public resort, under charge of persons in usual attendance there; and similar measures may, under similar circumstances, be adopted to secure the good conduct of a suspected person, in which case additional restrictions may be made, as suggested by the party's habits and the evil apprehended such as prohibiting his leaving his residence or certain limits at particular times, or providing himself with a horse, or arms, or any other restrictions which will not unreasonably affect his personal liberty, or deprive him of the means of procuring a livelihood: all which restrictions shall be notified to the party in writing, a copy thereof, with his signature in token of assent, being kept by the District Magistrate, and any breach thereof shall be punishable by simple imprisonment for a period not exceeding six months, which penalty also shall be inserted in the instrument.

the same being notified to the party, as well as specified imprisonment on the breach of them.

[Printed as amended by Bom. Act III of 1886. See Act X of 1882, s. 123. See note to s. 20.

The accused, suspected characters, were repeatedly warned to attend the daily muster, but failed to do so. They were all convicted, under sec. 174 of the Penal Code, of non-attend-

ance in obedience to an order from a public servant, that is, the Police Patil. *Held*, that sec. 27 of Reg. XII of 1827 contemplates the taking of security for good behaviour, or with the assent of the person concerned, the more lenient measures described therein. The Magistrate alone can take these steps and the proper remedy, for failure to comply with the terms imposed and accepted, is an exaction of security for good behaviour. The conviction and sentence were therefore reversed. *Bilu Hathi*, Cr. R. 29th April 1886.]

Sections XXVIII-XXIX.—[Repealed by Act XVII of 1862.]

Section XXX.—[Repealed by Bom. Act VII of 1867.]

CHAPTER IV.

OF EXTRAORDINARY MEASURES CONDUCIVE TO THE APPREHENSION AND PUNISHMENT OF OFFENDERS.

Sections XXXI.-XXXVI.—[Repealed by Act XVII of 1862 and Bom. Act VII of 1867.]

Section XXXVII.—Clause 1st.—When robbery has been committed within the boundary of a village or the perpetrators of a robbery have been satisfactorily traced thereto, and neglect or connivance be charged against the inhabitants or the Police establishment, with regard to prevention, detection or apprehension, it shall be competent to the Magistrate to investigate the matter as a criminal offence, and, if the fact be well substantiated, to exact a fine not exceeding the value of the property lost, the whole or part of which may be awarded in compensation to the owner, according as the degree of caution and activity which he evinced on the occasion may deserve.

Villages in certain cases responsible for robbery committed within their bounds, by fine;

Clause 2nd.—If the fine be awarded against the inhabitants at large, it shall be realized by the Collector in the same manner as revenue demands, and paid to the order of the Magistrate : if against individuals of the Police establishment, it shall be levied as directed for fines in general.

leviable by the Collector.

[S. 37 is printed as amended by Act XII of 1873. See note to s. 20.]

Section 37.—[Repealed by Act X of 1862.]

Sections XXXVIII and XXXIX.—[Repealed by Act XVII of 1862.]

CHAPTER V.—(Secs. XL-XLVII.)—[Repealed by Bom. Act VII of 1867 and Act XVII of 1862.]

CHAPTER VI.—(Secs. XLVIII-LIII.)—[Repealed by Bom. Act VIII of 1867.]

Appendices A-M.—[Repealed by Act XVII of 1862 and by Act XII of 1876.]

Appendix E (Repealed by Act II of '94)

REGULATION XIII OF 1827.

A REGULATION *defining the constitution of Courts of Criminal Justice and the functions and proceedings thereof.*—PASSED by the Governor in Council on the 1st of January 1827, corresponding with the 4th Poush Sood Sumbut or Vikramajeeet Era 1883, Salbahan 1748, and 2nd Jummadyool Akh'ir 1242, of the Hijree.

Preamble—[Repealed by Act XII of 1873.]

CHAPTERS I and II.—(Ss. I-XV.) - [Repealed by Acts X of 1872 and XVII of 1862.]

CHAPTERS III and IV.—(Ss. XVI-XXVI.)—[Repealed by Act XVII of 1862.]

CHAPTER V.—(Ss. XXVII-XXXIII.)—[Repealed by Acts X of 1872, XVI of 1862, and XII of 1873.]

CHAPTER VI.

Section XXXIV.—*Clauses 1st and 2nd*—[Repealed by Act XVII of 1862.]

Clause 3d.—It shall be competent to a Court, when the attendance of a public officer in permanent official employ, or of an individual of known respectability and prudent demeanour, is required, to notify the same to him by written order or letter, and take no other security, than his returning the same with an endorsement, signifying his acquiescence.

[Printed as amended by Acts XVII of 1862 and XII of 1876.]

This clause is in force throughout the whole of the territories subject to the government of the Governor of Bombay in Council at the date of the passing of Act XV of 1874, except the Scheduled Districts subject to such government. See Act XV of 1874, s. 5.]

Clauses 4th—9th.—[Repealed by Acts XVII of 1862 and XXIV of 1872.]

Sections XXXV—XLI.—[Repealed by Acts XVII of 1862 and X of 1873.]

[The remainder of this Regulation is repealed by Act XVII of 1862 and Bom. Act IV of 1865.]

Appendices A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, P, Q, R, S, T, U, V, W, X, Y, Z, and 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100.

REGULATION XXII. A. D. 1827.

A REGULATION, *to declare and define Military authority in its relations to the civil power, and to the community at large.*—PASSED by the Governor in Council on the 1st January 1827, corresponding with the 4th Poush Sood Sumbut or Vikramajeeet Era 1883, Salbahan 1748, and 2nd Jummadyool Akh'ir 1842 of the Hijree.

[The whole of this Regulation, except ss. 40-43, is repealed by Act XIII of 1889, s. 2.]

CHAPTER VII.

OF THE AID WHICH MAY BE FURNISHED BY CIVIL AUTHORITIES TO EXPEDITE THE MARCH OF MILITARY FORCES, AND OF COMPENSATION TO INDIVIDUALS FOR DAMAGE CAUSED BY THE TROOPS ON SUCH OCCASIONS.

Section XL.—When military bodies, exceeding in number two hundred (200) of infantry, or one hundred (100) of cavalry, shall have occasion to march through British territory, and also, if the number be smaller, provided they will require aid from the local authority, the commanding officer shall give timely notice to each District Magistrate through whose jurisdiction he will pass, specifying the probable time of his arrival, the extent of the corps, and the nature of the aid (if any) which will be required.

Notice to be given to the magistrates through whose jurisdictions troops may pass.

[Ss. 40-43 are in force throughout the whole of the territories subject to the government of the Governor of Bombay in Council at the date of the passing of Act XV of 1874, except the Scheduled Districts subject to such government.

Ss. 40-42 are printed as amended by Bom. Act III of 1886.]

Section XLI.—*Clause 1st.*—If it be required, the District Magistrate shall direct his establishment to be in readiness to procure guides, and such supplies of provisions as the country may furnish, and such conveyance for passing rivers or ghats, or any peculiarly difficult places, as is professionally provided by the inhabitants for such purposes:

What aid the Magistrate shall furnish,

Clause 2nd.—Provisions and conveyance supplied as above mentioned to individuals shall be paid for by them at the time and at the current rate of the place, the guides and conveyance for public property shall be paid for at the same rate by the Collector of the district, according to a certificate which the commanding officer is to grant denoting the services performed, and the Collector is to insert the amount so disbursed at the foot of his treasury account in explanation of his treasury-balance as prescribed for similar cases.

and how it shall be paid for.

[See note to s. 40.]

Section XLII.—*Clause 1st.*—When emergent occasions require the immediate march of troops, and more extensive aid towards it, than is allowed by the preceding section is necessary, the District Magistrate may resort to impressment under the following rules, being careful to define the nature of the employment for which the impressment is made and the period it is to continue.

On emergent occasions may be procured by impressment.

Clause 2nd.—The District Magistrate's authority for acting as in the preceding clause shall be either an order from the Governor in Council, or a letter from the commanding officer, declaring his inability to proceed without the District Magistrate's aid, and fully ex-

What is to be considered as constituting such emergency,

plaining the circumstances, which render the movement of paramount importance to the general inconvenience occasioned by impressment, on receipt of which the District Magistrate will act at discretion.

and how
remuneration
is to be made.

Clause 3rd.—Remuneration for services or supplies procured by impressment is to be fixed by the District Magistrate on a liberal scale, and paid according to the principles of Clause Second, Section XLI, of this Regulation; viz., individuals are to pay for that which is personal accommodation, and the Collector is to defray the charges incurred for the public service under the above quoted rules.

The magis-
trate to report
when he
resorts to im-
pressment.

Clause 4th.—Whenever impressment shall take place by virtue of this section, the District Magistrate shall, within ten (10) days, report the fact, with the cause and extent of impressment, and the rates of remuneration allowed, to the Governor in Council.

[Printed as amended by Act XII of 1873 and Bom. Act III of 1886.]

How persons
sustaining in-
jury by the
march or
encampment
are to seek
redress,
and within
what time,

Section XLIII.—*Clause 1st.*—When damage is occasioned to individuals by the march or encampment of troops, the commanding officer shall, on application by the sufferer, furnish him with a certificate of the nature, extent and cause thereof.

Clause 2nd.—The certificate mentioned in the preceding clause shall, if presented to the Collector or any of his officers holding charge of a district within ten days from its date, entitle the sufferer to compensation for loss occasioned by such movements or positions of the troops as are *bona fide* of a military nature.

in failure
whereof they
may resort to
law.

Clause 3rd.—On a demand being made by virtue of this section to the Collector, he shall inquire into its merits, and if satisfied that it is just, shall apply to Government for permission to pay it; if the Collector think the demand is not just, or if Government withhold permission to pay it, the complainant may bring the case to decision according to the process of civil law, by instituting a suit against the Collector.

REGULATION XXV. A. D. 1827.

A REGULATION for the confinement of State-prisoners and for the attachment of the lands of Chieftains and others for reasons of State.—PASSED by the Governor in Council on the 1st January 1827, corresponding with the 4th Poush Sood Sumbrut or Vikramajeet Era 1883, Salbahan 1748, and 2nd Jammadyool Akhir 1242 of the Hijree.

[This regulation is in force throughout the whole of the territories subject to the government of the Governor of Bombay in Council at the date of the passing of Act XV of

1874, except the Scheduled Districts subject to such Government. See sec. 5, Act XV of 1874. It is in force in the territory of Peint to the extent to which it is in force in any part of the Presidency not included in any Scheduled District. (1887, G. G., 234); and in the following villages of the Mehwasi Chiefs—(1) The Parvi of Katho. (2) The Parvi of Nal. (3) The Parvi of Singpur. (4) The Walvi of Gachalli. (5) The Wassawa of Chikhli. (6) The Parvi of Nawalpur. (1887, G. G., p. 19, No. 27, and Erratum, p. 821, No. 5659). It is also in force in the Island of Perim, except the first clause of section 4 and the words "or the Judge on circuit" in the second clause of the same section; section 6, the last twenty words of the preamble and the last five words of section 7. (1886, G. G., 1061).

The provisions of this Regulation as to arrest and confinement of State Prisoners is in force in the Presidency Towns. See Act III of 1858, sec. 2.]

WHEREAS reasons of State, embracing the due maintenance of Preamble. the alliances formed by the British Government with foreign Powers, the preservation of tranquillity in the territories of Native Princes entitled to its protection, and the security of the British dominions from foreign hostility and from internal commotion, occasionally render it necessary to place under personal restraint individuals, against whom there may not be sufficient ground to institute any judicial proceedings, or when such proceedings may not be adapted to the nature of the case, or may for other reasons be unadvisable or improper; and whereas it is fit that in every case of the nature herein referred to, the measures adopted should emanate immediately from the Governor in Council, and whereas the reasons above declared sometimes render it necessary that the estates and lands of zamindars, taluqdars and others situated within the zillas subordinate to Bombay, should be attached and placed under the temporary management of the Revenue Authorities, without having recourse to any judicial proceeding; the following rules have therefore been enacted.

[Printed as amended by Act XII of 1873.]

CHAPTER I.

RULES FOR THE APPREHENSION AND CONFINEMENT OF INDIVIDUALS AS STATE PRISONERS.

Section I.—Clause 1st.—When any of the considerations stated in the preamble of this Regulation may seem to the Governor in Council to require that an individual should be placed under restraint, without any immediate view to ulterior proceedings of a judicial nature, it shall be lawful for the Governor in Council, provided always that, with reference to the individual the measure shall not be in breach of British law, to cause such individual to be apprehended in such manner as the Governor in Council may deem fit, and when apprehended to be delivered over to any officer in whose custody it may be deemed expedient that he shall be placed, with a warrant of commitment to such officer's address.

Mode of proceeding for placing individuals under restraint as state-prisoners.

[So much of this clause as provides that with reference to the individual, the apprehension and confinement therein referred to shall not be in breach of British law, is repealed by Act No. III of 1858, except so far as the said provision applies to European British subjects.]

Form of the warrant and authority which it confers, Appendix A.

Clause 2nd.—The warrant of commitment shall be in the form specified in Appendix A, and shall be sufficient authority for the detention of any State-prisoner in any fortress, jail or other place within the zillas subordinate to Bombay.

Rules for the maintenance of the state-prisoner.

Section II.—The Governor in Council shall fix such allowance for the support of the state-prisoner as may seem to him expedient in reference to the prisoner's habits and rank in society and shall specify at the same time through whose means it is to be paid and how it is to be applied.

Half-yearly statements to be forwarded by the officer in charge of prisoner.

Section III.—Every officer in whose custody any state-prisoner may be placed, shall on the first of January and first of July of each year, submit a report to the Governor in Council, through the Secretary to Government in the Political Department, on the conduct, the health and the comfort of such state-prisoner, in order that the Governor in Council may determine whether the orders for his detention shall continue in force or shall be modified.

Section IV.—Clause 1st.—[Repealed by Act XII of 1873.]

If the officer be not a magistrate, a special arrangement will be made to ensure periodical visits to the prisoner, and reports upon his health and treatment.

Clause 2nd.—When any State-prisoner is placed in the custody of any public officer not being a District Magistrate, the Governor in Council shall instruct either the District Magistrate, or any other public officer, not being the person in whose custody the prisoner may be placed, to visit such prisoner at stated periods, and to submit a report to Government regarding the health and treatment of such prisoner.

[Printed as amended by Bom. Act III of 1886, Sch. B, and Act XII of 1873.]

The officer in charge shall also report particulars relative to the health and comfort of the prisoner ;

Section V.—Clause 1st.—Every officer in whose custody any state-prisoner may be placed, shall, as soon after taking such prisoner into his custody as may be practicable, report to the Governor in Council whether the degree of confinement to which he may be subjected, appears liable to injure his health, and whether the allowance fixed for his support be adequate to the supply of his own wants and those of his family, according to their rank in life.

and shall always forward the prisoner's representations with remarks.

Clause 2nd.—The officer in whose custody any state-prisoner may be placed, is to forward with such observations as may appear necessary, every representation which such state-prisoner may from time to time be desirous of submitting to the Governor in Council.

Section VI.—[Repealed by Act XII of 1876.]

CHAPTER II.

RULES FOR THE ATTACHMENT OF LANDS FOR REASONS OF STATE
AND FOR REMOVING SUCH ATTACHMENT.

Section VII.—Whenever the Governor in Council, for reasons of the nature of those specified in the preamble to this regulation shall judge it necessary to attach the estates or lands of any zamindár, jágirdár, taluqdár or other person without any previous decision of a Court of justice, or other judicial proceeding, the grounds on which the resolution of Government may have been adopted, and such other information connected with the case as may appear essential, shall be communicated, under the hand of one of the Secretaries to Government, to the Judge and the District Magistrate or other civil authorities of the district in which the lands or estates may be situated.

[Printed as amended by Act XII of 1876 and Bom. Act III of 1886, Sch. B.]

Section VIII.—Clause 1st.—The lands or estates which may be temporarily attached shall be held under the management of the officers of Government in the Revenue Department, and the collections shall be made and adjusted on the same principles, if consistent with the rights of others, as had been followed by the proprietor, provided, however, that any change may be introduced which the proprietor may desire, and which may not infringe on private rights nor appear objectionable to the Collector, and annual accounts of the management of the lands attached shall be furnished to the proprietor.

Clause 2nd.—Such lands or estates while so under attachment shall not be liable to be sold by process of law, or otherwise, without the mutual consent of Government and the proprietor; but the annual income or any portion of it may, if Government shall so direct, be applicable to the satisfaction of decrees of the civil Court.

Section IX.—Whenever the Governor in Council shall be of opinion, that the circumstances which rendered the attachment of such estate necessary, have ceased to operate, and that the management of the estate can be committed to the hands of the proprietor without public hazard or inconvenience, the Revenue Authorities will be directed to release the estate from attachment, to adjust the accounts of the collections, during the period in which they may have been superintended by the officers of Government, and to pay over to the proprietor the profits from the estates which may have accumulated during the attachment.

APPENDIX A.

To the (*here insert the officer's designation.*)

WHEREAS the Governor in Council, for good and sufficient reasons, has resolved that (*here insert the state-prisoner's name*) shall be

placed under personal restraint at (*here insert the name of the place*) you are hereby ordered in pursuance of that resolution to receive the person abovenamed into your custody, and to deal with him in conformity to the orders of the Governor in Council and the provisions of Regulation XXV., A D. 1827.

By order of the Governor in Council,

(Signed) A. B.,

Secretary to Government.

Bombay Castle,

_____ day of _____ 18____,

REGULATION XXIX A. D. 1827.

A REGULATION for bringing under the operation of the Regulations, the Bombay territories in the Dekkhan and Khandesh.—PASSED by the Governor in Council of Bombay on the 1st of August 1827, corresponding with the 9th Shravan Sood Sumbut or Vikramajet Era 1883, Salbahan 1749, Fusal 1237, Soorsun 1228, and 7th Mohurrum 1243 of the Hijree.

[Partially repealed by Act VI of 1842 and by Act IV of 1868. Extended to the Southern Marátha Country (Dharwar) by Regulation VII of 1830, sec. 2, *q. v.*

• See Regs. XVI of 1831, I of 1834.]

Preamble.

WHEREAS, subsequently to the conquest by the Company, of the territories of the late Peshwa, in the Dekkhan and Khandesh, and the acquisition from other States by treaties and agreements of other territories within the said countries, the Governments of all the said territories have, with the view of avoiding the abrupt introduction of extensive change, been conducted, under the orders of the Governor in Council, constituting a system which was calculated gradually to prepare the way for the introduction of the general rules of the British administration ; and whereas the Regulations for the administration of the Bombay territories have, in the meantime, been revised, and it has now been judged expedient to bring the territories in the Dekkhan and Khandesh under the revised Regulations, being the first twenty-six (26) Regulations of 1827, with certain modifications, the following rules have been enacted.

[Printed as amended by Act XII of 1876.]

It seems section I was not enacted, as it is not to be found in the Government edition in the Bombay High Court Library.]

II.—First.—The first twenty-six (26) Regulations of 1827, ~~with the exception of Regulation XVIII and of any enactments relating to Stamps,~~ shall, from the first September 1827, be of force and effect, except as specifically enacted to the contrary, throughout the Bombay territories in the Dekkhan and Khándesh, consisting of the zillas of Puna and Ahmadnagar, as described in Appendix A to this Regulation.

The revised Regulations and others subsequently passed, made applicable to the Dekkhan and Khándesh.
The laws are repealed by Act XII of 1876

[Printed as amended by Act XII of 1876. As to the exception about Regulation 18 and other stamp enactments, see Bombay Regulation IV of 1828 (now repealed), which enacted that the provisions of Regulation XVIII of 1827 and of any enactments relating to stamps, be brought into operation in the Bombay territories in the Dekkhan and Khándesh, including Sholapur.]

Second.—[Repealed by Act No. XII of 1876.]

III.—First.—With reference to the said zillas, suits against certain persons of rank, as hereinafter specified, shall not come under the jurisdiction of the civil Courts.

[Printed as amended by Act XII of 1876. See note to Act X of 1876, s. 4, and to s. 1 of Reg. XIII of 1830.]

Second.—A list of the said persons of rank will be furnished by Government to the Judge, who will, on application, communicate the same to any person, who, as plaintiff or defendant, may shew, that his interest requires his being supplied with that information.

Courts of Civil Justice are not to entertain suit against certain persons of rank.

of whom a list will be furnished to the Judge.

IV.—First.—An Agent of Government shall be specially appointed for the purpose of receiving and trying, and deciding all complaints of a civil nature, which would, under the ordinary rules, be cognizable by either of the Judges of Puna and Ahmadnagar, against any of the persons contemplated in the preceding section: he shall be furnished with a list of the said persons of rank, and with instructions descriptive of the respective rules of procedure to be followed in the case of each such person, and he shall communicate to any individual making application, so much of the abovementioned information as such individual may shew to be important to his own interest.

Suits against such persons will be tried by an officer appointed for the purpose, who will have a list of them and corresponding instructions, and will afford information to those concerned.

[“Ordinary rules” means rules for the time being in force determining the jurisdictions of the judges referred to in this section. The object of the Regulation is to invest the Agent with the jurisdiction possessed for the time being by the Civil Courts. If, therefore, the jurisdiction of the Civil Courts were to become in any way modified, that of the Agent would be similarly modified. *Daji v. Ganpatrao*, I. L. R. 17 Bom. 224.]

Second.—The list abovementioned shall comprise three (3) classes of persons of rank, and the instructions abovementioned shall provide three (3) several modes of procedure, applicable respectively to each class of the said persons of rank.

The list and instructions will comprise persons of three classes.

V.—First.—Suits against the persons belonging to the first of the classes comprised in the Agent’s list, being individuals of the very first

The first class persons of the highest im-

portance, on whom decrees cannot be executed without reference to Government, and an appeal from Government will lie to the King in Council.

distinction and influence under the Peshwa's Government, on account of their birth, their political importance or the religious estimation in which they were held, shall be conducted and decided by the Agent ; reference being had in the most ample degree to the privileges of the defendant by former usage and custom enjoyed, and to other peculiar characteristics of the case conformable to like usage and custom ; and no decree against any such defendant shall be enforced, until the suit and all proceedings thereon shall have been referred to the Governor in Council (to whom also the plaintiff may appeal) who, as a special superior Court for the adjustment of such suits, will pass such order thereon as he may deem just and equitable : an appeal to the King in Council being open to either party.

The second class persons next in importance, whose suits may be appealed to Government and from Government to the King in Council.

Second.—Suits against the persons belonging to the second of the classes comprised in the Agent's list, being individuals not equal in consideration to those above adverted to, but of high rank and importance under the Peshwa's Government, shall be conducted and tried by the Agent, reference being had in a great degree, and in conformity to former usage and custom, to the rank of the defendant, his situation and privileges, under the Peshwa's Government, as affecting his creditor's means of compelling payment during that period, his present means of discharging the debt, and other points material to the real equity of the plaintiff's claim, and the defendant's liability : an appeal against the Agent's decision to the superior Court of the Governor in Council, as above constituted, shall be open to either party : the petition of appeal shall be presented either to the Agent, or to Government within ninety (90) days (which period may be extended for good reasons) after the Agent's decision was passed : the rules for trial and decision of such appeal shall be the same as those prescribed for the original trial of the suit, and a final appeal to the King in Council shall be open to either party :

The third class persons of less importance than the foregoing, whose suits may be appealed to the Suddur Adawlut and from that Court to the King in Council.

Third.—Suits against the persons belonging to the third of the classes comprised in the Agent's list, being individuals inferior in rank to those of the classes previously described, but still equitably entitled, on account of the privileges hitherto enjoyed by them, to a certain special degree of consideration, shall be conducted and tried by the Agent, in like conformity to usage and custom, with some relaxation of the rules of the general Regulations, and some portion of attention to the points above specified for regulating his decisions in suits against individuals of the two superior classes : an appeal to the Suddur Dewannee Adawlut, against the Agent's decision, shall be open to either party ; the petition of appeal shall be presented, either to the Agent or to the Suddur Dewannee Adawlut, within

ninety (90) days (which period may be extended for good reasons) after the Agent's decision was passed ; the rules for trial and decision of such appeal shall be the same as those prescribed for the original trial of the suit, with which view the instructions of the Agent, with regard to the defendant, shall be communicated by Government to the Suddur Dewannee Adawlut : and a final appeal to the King in Council shall be open to either party.

[Printed as amended by Act XII of 1876.]

Section VI.—[Repealed by Act X of 1876.]

Section VII.—[Repealed by Act XIV of 1869, Sch.]

APPENDIX A.

(See Section 2, Clause 1st.)

[Partially repealed by Act No. XI of 1846, g. v.]

Territorial. description of the Zillas in the Dekkhan and Khândesh, established under the Presidency of Bombay, formed of conquests from the Peshwa (proclamation of Occupation, 11th February, 1818), and cessions from Holkar (treaty 6th January, 1818), Sindia (treaty 6th February, 1820), and the Nizâm (treaty 12th December 1822).

ZILLA OF POONA.

The two (2) tarafs Haveli Puna and Karyát Mával.

The fifteen (15) following villages of the taraf Keru Bára,

viz. :—

1 Sivra,	9 Khetkavlá,
2 Kondhanpur,	10 Kumbosi,
3 Kalyán,	11 Gávardari,
4 Ráhtavda,	12 Gogalvád,
5 Ombra,	13 Kaumthadi,
6 Arvi,	14 Khed Sivápur,
7 Kivra,	15 Kelvad.
8 Kámsa,	

The three (3) following villages of the taraf Musa Khora, namely :—

1 Jamli,	3 Sangrun.
2 Sonapur,	

The three (3) following villages of the taraf Muta Khora, namely :—

1 Ambegaon,	3 Ambi.
2 Bhávli,	

The two (2) following villages of the taraf Kánad Khora, namely :—

1 Vinjer,		2 Antroli.
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The eighteen (18) tarafs, Sándas, Pátas, Pánbal, Máhlunga, Ausiri, Khed, Chákan, Ghoda, Váda, Ambegaon, Junna, Votur, Ala, Bela, Markhoda, Hokatner, Mínnar and Náráyaongaon.

The ten (10) following villages of the taraf Kurda, namely :—

1 Ambi,	|	6 Bhaugri,
2 Khámbori,	|	7 Aldára,
3 Barádi,	|	8 Língdi,
4 Lavki,	|	9 Ghásgaon,
5 Nándur Kandumál,	|	10 Pimpalgaon Jog.

The three (3) tarafs, Andar Mával, Náni Mával and Paud Khora.

The thirty-two (32) following villages of the taraf Paun Mával, namely :—

1 Karunj,	|	17 Shivner,
2 Ambegaon,	|	18 Bauver,
3 Pusáni,	|	19 Thugaon,
4 Chándkhed,	|	20 Pardavdi,
5 Kila,	|	21 Mahágaon,
6 Shevti,	|	22 Kusgaon,
7 Sindgaon,	|	23 Yelsi,
8 Pávla,	|	24 Bebarvohol,
9 Kurda,	|	25 Riha,
10 Siravli,	|	26 Pauchana,
11 Ghivandi Alvan,	|	27 Bersi,
12 Apti,	|	28 Badavli,
13 Kauter Khadak,	|	29 Arra,
14 Malavli,	|	30 Ursi,
15 Shivli,	|	31 Gotavra,
16 Aridiv,	|	32 Adala Khurd.

The three (3) tarafs Kari Pathar, Sásvad and Supa.

So much of the two (2) tarafs, Nir Thadi and Sirval as lies north of the Nira river.—[See Act IV of 1868, s. 1.]

The six (6) tarafs, Indápur, Bárámati, Mohol, Undartappa to the west of the Sína river, Bhusa and Temburni.

The four (4) following villages of the taraf Karkam, namely :—

1 Gursáli,	|	3 Karola,
2 Bádalkot,	|	4 Ujini.

The two (2) following villages of the taraf Káthi, namely :—

1 Sorsti,		2 Shankargaon.
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The three (3) tarafs, Sholápur, Ahirvádi and Mandrup.

The five (5) following villages denominated the Sammot Phutgaon, namely :—

- | | |
|-------------|------------|
| 1 Andál, | 4 Dárpbal, |
| 2 Muránchi, | 5 Mangaul, |
| 3 Nerkhed, | |

The seven (7) tarafs, Indi, Támba, Hippargi, Jalvad-Kokatnúr, Almel, Bardul and Ukli.

The three (3) following villages of the taraf Haveli Bijápur, namely :—

- | | |
|-------------|-------------|
| 1 Ukmanhál, | 3 Ahleabad. |
| 2 Kaulga, | |

The four (4) following villages of the taraf Horti, namely :—

- | | |
|---------------|---------------|
| 1 Ránjanhál, | 3 Tilihál, |
| 2 Minchanhál, | 4 Kyátilkiri. |

The qasba of Sindgi.

The six (6) following villages of the taraf Honvád, namely :—

- | | |
|-----------------------------|----------------|
| 1 Jálíhál, | 4 Aráhalli, |
| [See Act VI of 1842, s. 1.] | 5 Kaltavteghi, |
| 2 Rámtirat, | 6 Ghonasghi. |
| 3 Yetinhál, | |

The seven (7) following villages of the taraf Anti, namely :—

- | | |
|--------------|-------------|
| 1 Aralhatti, | 5 Balgheri, |
| 2 Abihál, | 6 Sambárga, |
| 3 Tangarri, | 7 Bemanhál. |
| 4 Mangsula, | |

The two (2) following villages of the taraf Halsanghi, namely :—

- | | |
|--------------|------------|
| 1 Bhatgunki, | 2 Gotihál. |
|--------------|------------|

The six (6) following villages, namely :—

- | | |
|-------------------|-----------------|
| 1 Avarkor, | 4 Tingni Bidri, |
| 2 Hina Parsalghi, | 5 Hongalhalli, |
| 3 Surpál, | 6 Kárjol. |

[4, 5 and 6. See Act VI of 1842.]

The two (2) tarafs, Tálikoti and Nálatvád.

The qasba of Bágevádi and the two (2) villages of Masbinhál and Yervál.

The four (4) following villages in the taraf Muhammadpur, namely :—

- | | |
|-------------|-----------------------|
| 1 Jaynápur, | 3 Upaldinni, |
| | [See Act VI of 1842.] |
| 2 Budeni, | Gurodhál. |

The village of Bhágánagar, taraf Sednák.

The seven (7) following villages of the taraf Chimalghi, namely :—

1 Disálkqp,	5 Gharri,
2 Mijarkop,	6 Liklevádi,
3 Mukartihál,	7 Maundghi.
4 Golsinghi,	

ZILLA OF AHMADNAGAR.

Ahmadnagar Collectorship.

Barsi Panch Maháls.

The Peshwa's share of the pargana Doka.

The village of Vághola in the Dharur pargana.

So much of the pargana Haveli Parinda as lies west of the Sina river, and the village of Sonári to the east of the said river.

The two (2) parganas of Jámkhed and Vanghi.

The Peshwa's share of Pránt Karrevarit and that part of the Nizám's share which lies west of the Sina river.

The Peshwa's share of the Ashti pargana and the taraf Mánur.

The two (2) tarafs, Nagar Haveli and Ránjangaon.

The pargana Párner.

The nine (9) following villages in taraf Belha, namely :—

1 Dávalgaon,	4 Babra,	7 Ukargaon,
2 Orngaon,	5 Kolgaon,	8 Isápur,
3 Karnjavna,	6 Sidori,	9 Andalgaon.

The two (2) parganas of Kharda and Nevása, except the village of Jalka.

The two (2) tarafs, Ganji Bhoyra and Vávrád.

The pargana Bárágaon Nandur,

The Peshwa's share of the two (2) parganas Bijápur and Gándápur, together with the village of Tákli.

The pargana Sangamner, together with the three (3) qasbas of Ráháta, Puntámba and Wháva.

The thirteen (13) parganas, Dhándarphal, Kotul, Akola, Sinnar, Kumbhari, Patoda, Násik, Trimbak, Vaghera, Vani, Dindori, Shevgaon and Chándor.

Khandesh Collectorship.

The thirteen (13) parganas, Laling, Songir, Ner, Amalner, Betavad, Dhangri, Garondol, Jalod, Chandshahar, Ahadgaon, Bhal Utran, and Masva.

The pargana Pachora which belongs to Sindia, but is governed by the British.

The taraf Lohara-Haveli which belongs to Sindia, but is governed by the British.

The taraf Sangvi, in the Lohara pargana.

The five (5) parganas, Shendurni, Chalisgaon, Rajdesh, Mahombari, and Manikpuri.

The eighteen (18) following villages of the Kanna pargan, namely :—

1 Rolter.	10 Kanedi,
2 Rohilla.	11 Jalgaon,
3 Porkri.	12 Jamdi,
4 Malligaon,	13 Tunvana,
5 Champaner,	14 Palasgaon,
6 Hingna,	15 Malpur,
7 Naydongri,	16 Vetapur,
8 Sahkegaon,	17 Makrandarpur,
9 Kadra,	18 Narsinhpur,

The two (2) qasbas of Ranjangaon and Jategaon.

The twenty-four (24) parganas, Galna, Chikhalvohol, Tokra Jhoda, Lohoner, Vakhari, Sandas, Jayteypur, Pissol, Tilvad, Korali, Otur, Pala, Hatgad, Kanasi, Pimpla, Pimpalner, Dhaiva, Varsa, Bhamen, Navapur, Nandurbar, Sultanpur, and Kukarmunda.

The three (3) qasbas of Pankera, Umarpatta and Chaupala.

The principality of Akrani.

The pargana of Chopda which belongs to Sindia, but is governed by the British.

The two (2) parganas of Thalner and Amba.

The qasba of Sindva.

The pargana of Yaval which belongs to Sindia, but is governed by the British.

The two (2) parganas of Adavad and Savda.

The village of Changdev.

The pargana of Raver, including the taraf of Pal.

The four (4) parganas of Nasirabad, Jamner, Bodvad and Bornar.

REGULATION VII A. D. 1830.

A REGULATION for bringing under the operation of the Regulations the territories comprised in the Southern Marátha Country, belonging to the Honourable Company, and forming the said Territories into a Zilla. PASSED by the Governor in Council of Bombay on the 17th March 1830, corresponding with the 8th of Falgoon Vud Sumbut or Vikramajeet Era 1886, Salbahan 1751, Fusly 1239, Soorsun 1230, and 21st Rámzáan, 1245, of the Hijree.

Preamble.

WHEREAS the administration of the territories of the Southern Marátha Country, acquired by conquest by the Honourable Company from the Peshwa, and by treaty and agreement from other States, has been hitherto conducted under the orders of the Honourable the Governor in Council, the Regulations being in force in the said territories as instructions to be acted upon, as far as circumstances, under the recent acquisition, might dictate : and as preparatory to the formal introduction of the Regulations, as established laws ; and, whereas the said country and territories having now, by order of the Honourable the Court of Directors, been finally annexed to the Presidency of Bombay, the Honourable the Governor in Council has judged it expedient to form the said territories into a zilla, to be denominated the zilla of Dhárwár, and to introduce and establish therein the Regulations now in force under the Presidency of Bombay ; in the same manner, and upon the same principles, as in the territories of the Dekkhan and Khándesh, under the provisions of Regulations XXIX and XXX of 1827 ; the following rules have therefore been enacted :

[Printed as amended by Act XII of 1876.]

The territories of the Southern Marátha Country formed into a zilla.

Section I.—The territories of the Southern Marátha Country, as described in Appendix A to this Regulation, are hereby formed into a zilla, to be denominated the zilla of Dhárwar.

Brought under the operation of the Regulations.

Section II.—The said zilla is brought under the operation of the general Regulations now in force under the Bombay Presidency, with the exceptions and according to the rules provided in Regulations XXIX and XXX of 1827, for the territories of the Dekkhan and Khándesh, as the same may not have been modified by any subsequent enactment, and with the exceptions of the following sections.

Exception.

[Printed as amended by Act XII of 1876. So much of this section as makes section 6 of Regulation XXIX of 1827 applicable to the territories comprised in the Southern Marátha Country, is repealed by Act No. X of 1876.]

Sections III, IV.—[Repealed by Act No. XII of 1873.]

Section V.—There shall be a Political Agent in the Southern Márátha Country, on the part of Government, for the trial of suits against persons of rank ; and in modification of the rules contained in Section III and the following sections of Regulation XXIX, 1827, it is enacted that suits against such persons, of whom a list shall be furnished by Government to the Agent, shall be tried by him in the same manner, and under the same rules as are enacted for the Agent of Sirdars' claims for the Dekkhan.

[See Regulation XVI of 1831, s. 1.]

There shall be a Political Agent with power to try suits instituted against persons of rank, under certain modification of section III of Regulation XXIX, 1827.

APPENDIX A.

TERRITORIAL *description of the zilla of the Karnatak or Southern Marátha Country, under the Presidency of Bombay ; formed by conquests from the Peshwas ; (Proclamation of occupation, 11th February, 1818), cession by the Raja of Kolhapur ; (Definitive treaty, 15th March, 1829), reversion of jagirs on failure of direct heirs, resumption of a part of the Sangli jagir in lieu of service and the transfer of two talukas from the Puna zilla (Order of Government dated 19th November, 1829).*

The thirty-two (32) parganas, Dhárwár, Navalgund, Gadag, Bankápur, Shiggaon, Hángal, Adur, Mishrikot, Old Hubli, New Hubli, Eyarni, Guttul, Kagenellee, Kod, Hirekerur, Chikkerur, Kuppelrur, Tilvalli, Khánápur, Murgod, Bágalkot, Rolli, Bilgi Bádami, Kerur, Mudkavi, Hungund, Nandvarge, Indi, Tamba, Hippargi and Jalvadvokatnúr.

Pargana Kardgar (with the exception of the villages of Savalgaon, Bálihalli, Jogeshwar, Kondui, Voginkeri, Indur, Arshenágeri and Hungund, included in the Sonda Province, under the Madras Presidency ; Yáribudihal, belonging to Chintáman Ráo Sáheb Sánglikar ; Yellápur, belonging to Mádhav Ráo Sáheb Mirajkar ; and Savanur, Holanhulli, Chillur, Tobada-Hulikatti Gabbur, Mankatti, Jekinkatti, Torur, Siddápur, Yekkikhop, Kebbanur, Vaddinakop, Naikerur, Tendur, Manur, Niralkatti, Dommar-Mattur, Mulkerri, Mádápur, Basavankop, Chandápur, Kallivál, Nandihalli, Honnikop and Surapakatti, belonging to the Nawáb of Savanur).

Pargana Nirsangi (with the exception of the villages of Váralge, and Vonikerri, included in the Sonda Province, under the Madras Presidency).

Pargana Taras (with the exception of the villages of Bálinhalli and Kalkeri, included in the Sonda Province, under the Madras Presidency).

Pargana Páchhápúr (with the exception of the villages of Bassápur, Haggédáhál, Arlekatti, Serur, Sháhbandar, Islámpur and Ghutpuddi, belonging to the Rájá of Kolhapur; Tummarginuddi and Harankolla, belonging to Chintáman Ráo Sáheb Súnglikar and Budihál and Malbemardi, belonging to Raghunáth Ráo Sáheb Kurundvákár).

Pargana Ráne Bennur (with the exception of the village of Man Milár included in the Bellári district, under the Madras Presidency.)

Pargana Rattehalli (with the exception of the village of Ukadgatri, belonging to the Rájá of Mysore).

Pargana Mausur (with the exception of the villages of Kaváspur and Guladhállí, belonging to the Rájá of Mysore).

Pargana Almella (with the exception of the villages of Haukoánhalli and Murganur, belonging to the Surpur Rájá, Nizám's territories).

Pargana Bardol (with the exception of the village of Umraz, belonging to Govind Ráo Sáheb Patvardhan).

[See Act VI of 1842, s. 1.]

Pargana Tálíkotta (with the exception of the villages of Bhattnur, Taggartaggi, Allápur, Nágávi, Allápur, Náráyanpur, Holikeri and Vadgerri, belonging to the Surpur Rájá, Nizám's territories).

Pargana Nálatvád (with the exception of the villages of Madlingad-halli, Kol-guda and Bassápur, belonging to the Surpur Rájá, Nizám's territories).

The six (6) tarafs, Kárkop, Máradági, Ugargol, Morab, Medlári and Vatnál.

The twenty-two (22) Karyáts Aminbhávi, Nárendar, Devar-Hubli, Tadmód, Ékkundi, Betigera, Ambadgatti, Samgaon, Bágevadi, Kádárvalli, Golehalli, Nangad, Halsanji, Kakkeri, Kárlagi, Lokoli, Manoli, Mazti, Yelli-Manoli, Sadalgi, Sindogi and Satigerri.

Karyát Nesargi (with the exception of the village of Madanbhávi, belonging to Siddoji Ráo Náik Nimbálkar, Sar-Lashkar, alias Nipánikar.)

Karyát Belvádí (with the exception of the village of Doddvá, belonging to Chintáman Ráo Sáheb Súnglikar).

Karyát Kabbur (with the exception of the village of Belákod, belonging to Siddoji Ráo Náik Nimbálkar, Sar-Lashkar, alias Nipánikar).

The five (5) Sammats Tegur, Kalkeri, Kalghatgi, Bommiakatti and Tumba.

The twelve (12) villages under the Fort of Kalánidhigad.

Fort of Hire Gandharvagad and its dependencies, Fort of Gajendragad and its dependencies.

The five (5) following villages of the pargana Nargud, namely :—

- | | |
|---------------|--------------|
| 1 Tadáhal, | 4 Gulugundi, |
| 2 Karkikatti, | 5 Revadekop. |
| 3 Auchmatti, | |

The thirteen (13) following villages of the pargana Govindkop, namely :—

- | | |
|---------------|-------------------|
| 1 Benkan kop, | 8 Gobbargumpi, |
| 2 Arshingod, | 9 Bettad Kusogal, |
| 3 Hanchimall, | 10 Harlapur, |
| 4 Hadgali, | 11 Govankopp, |
| 5 Kuralgeri, | 12 Mallapur, |
| 6 Khanapur, | 13 Javur. |
| 7 Madgunki, | |

The four (4) following villages of the pargana Ajamnaga, namely :—

- | | |
|------------------|------------|
| 1 Qasba Belgaum, | 3 Sindoli, |
| 2 Hindalghi, | 4 Mannur. |

The eight (8) following villages of the pargana Shahapur, namely :—

- | | |
|-----------------|-------------|
| 1 Kudchi, | 5 Muchandi, |
| 2 Kanabergi, | 6 Yulbail, |
| 3 Chandanhosur, | 7 Modga, |
| 4 Dhamni, | 8 Chandgad. |

The village Chikkavadavalli of the pargana Shirhatti.

The seven (7) following villages of the pargana Lakshmeshva, namely :—

- | | |
|--------------|-------------------|
| 1 Sanklipur, | 5 Gummagol, |
| 2 Badni, | 6 Mallikarjunpur, |
| 3 Vithalpur, | 7 Chakinkeri. |
| 4 Hamigi, | |

The village of Budihal of the pargana Kundgol.

The village of Algundi of the pargana Machaknur.

The seven (7) following villages of the pargana Ukli, namely :—

- | | |
|---------------|----------------|
| 1 Qasba Ukli, | 5 Nandihal, |
| 2 Mangoli, | 6 Yembatnahal, |
| 3 Kumatgi, | 7 Hattarkihal. |
| 4 Bissalhal, | |

The four (4) following villages of the pargana Horti, namely :—

- | | |
|---------------|----------------|
| 1 Rajanhal, | 3 Tilihal, |
| 2 Minchanhal, | 4 Kyatankerri. |

The six (6) following villages of the pargana Honvad, namely :—

- | | |
|-----------------------|----------------|
| 1 Jalihal, | 4 Arahalli, |
| [See Act VI of 1842.] | 5 Kalkavteghi; |
| 2 Ramtirth, | 6 Ghonasghi. |
| 3 Yetinhal, | |

The three (3) following villages of the pargana Bagevadi, namely :—

- | | |
|-------------------|-----------|
| 1 Qasba Bagevadi, | 3 Yernal. |
| 2 Masbinahal, | |

The nine (9) following villages of the pargana Alni, namely :—

- | | |
|--------------|----------------|
| 1 Aralhatti, | 6 Sambarga, |
| 2 Abihal, | 7 Bomanhal, |
| 3 Tangarri, | 8 Madbhavi, |
| 4 Mangsuli, | 9 Partanhalli. |
| 5 Balgheri, | |

The village of Bhahtgunki, of the pargana Halsangi.

The village of Avarkod, of the pargana Garrikokatnúr.

The village Parsalghi, of the pargana Bidari.

The two (2) following villages of the pargana Ghot, namely :—

- | | |
|----------|-----------------------|
| 1 Surpa, | 2 Tingni Bidri. |
| | [See Act VI of 1842.] |

The two (2) following villages of the pargana Mulvád, namely :—

- | | |
|----------------|-----------------------|
| 1 Honganhalli, | 2 Karjol. |
| | [See Act VI of 1842.] |

The seven (7) following villages of the pargana Chimalgh, namely :—

- | | |
|---------------|--------------|
| 1 Bisalkop, | 5 Ghani, |
| 2 Majrekop, | 6 Siklevádi, |
| 3 Mukartihal, | 7 Máradghi. |
| 4 Golsinghi, | |

The village of Bhhaganagar, of the pargana Sidhanath.

The three (3) following villages of the pargana Muhammadapur, namely :—

- | | |
|------------|-----------------------|
| 1 Jaynápur | 3 Upaldinni. |
| 2 Budeni, | [See Act VI of 1842.] |

The two (2) following villages of the pargana Terdál, namely :—

- | | |
|----------------|-------------|
| 1 Sapta Ságar, | 2 Kemlápúr. |
|----------------|-------------|

The three (3) following villages of the pargana Mangalvedha, namely :—

- | | |
|-------------|---------|
| 1 Kavtholi, | 3 Amba. |
| 2 Donaj, | |

The village Konfur, in the pargana Jamkhandi.

The four (4) following villages of the pargana Vithal Vishráṁ, namely :—

- | | |
|-------------|--------------|
| 1 Rájgoti, | 3 Supa, |
| 2 Kundanur, | 4 Turkevádi. |

The six (6) following villages of the pargana Mulgund, namely :—

- | | |
|-----------|----------------|
| 1 Banvád, | 4 Bassápur, |
| 2 Kanávi, | 5 Sittaulhari, |
| 3 Hossur, | 6 Seruj. |

The four (4) following villages of the taraf Konnur, namely :—

- | | |
|--------------|------------|
| 1 Hirekop, | 3 Hágnúr, |
| 2 Hampiholi, | 4 Belleri. |

The four (4) following villages of the taraf Sánkli, namely :—

- | | |
|------------|------------|
| 1 Kelila, | 3 Hollada, |
| 2 Mendila, | 4 Tánáli. |

The three (3) following villages of the taraf Maneri, namely :—

- | | | |
|------------|-----------|---------|
| 1 Mirvala, | 2 Morula, | 3 Vadi. |
|------------|-----------|---------|

The two (2) following villages of the taraf Harlápúr, namely :—

- | | |
|-------------|--------------|
| 1 Narsapur, | 2 Vobalapur. |
|-------------|--------------|

The village Rokadkatti of the taraf Bannur.

The three (3) following villages of the Karyat Asundi, namely :—

- | | |
|--------------|--------------|
| 1 Asundi, | 3 Kurvankop. |
| 2 Karekatti, | |

The fourteen (14) following villages of the Karyát Huli, namely :—

- | | |
|---------------|---------------------|
| 1 Qasba Huli, | 8 Daderikop, |
| 2 Kapli, | 9 Bingadakati, |
| 3 Manikatti, | 10 Konkankujhatti, |
| 4 Belvanki, | 11 Tuppadakurhatti, |
| 5 Kaujgeri, | 12 Yamgal, |
| 6 Rottigávád, | 13 Hulikatti, |
| 7 Adnur, | 14 Sortur. |

The three (3) following villages of the Karyat Ingalhalli, namely :—

- | | |
|---------------|-------------|
| 1 Nalvadi, | 3 Sirguppi. |
| 2 Mullahalli, | |

The two (2) following villages of the Karyat Hebli, namely :—

- | | |
|----------------|-----------|
| 1 Qasba Hebli, | 2 Sevali. |
|----------------|-----------|

The three (3) following villages of the Karyat Adgal, namely :—

- | | |
|--------------|-------------|
| 1 Nippanhal, | 3 Biranhal. |
| 2 Alaknur, | |

The twenty (20) following villages of the Karyát Sholápur, namely :—

1 Qasba Shápur,	10 Kanagalla,
2 Náganúr,	11 Hitni,
3 Gudikuppi,	12 Rásingkhurd,
4 Hargápur,	13 Hadalga,
5 Karájgi,	14 Bahirápur,
6 Shendur Orásing	15 Sankeshvar,
Buzurg,	16 Tavdi,
7 Shenkinhosur,	17 Buktialúr,
8 Honnoli,	18 Anklā,
9 Konankerri Pimpal-	19 Bákunhál,
gaon,	20 Baur.

The nine (9) following villages of the Karyát Sávgaon, namely :—

1 Benodi,	6 Bhátnágnur,
2 Haddanál,	7 Audi,
3 Mattivád,	8 Savdalga,
4 Rongnoli,	9 Hanchinhál.
5 Sulgaon,	

The eighteen (18) following villages of the Karyat Laut, namely :—

1 Chinchni,	10 Budihál,
2 Jettrátt,	11 Kodani,
3 Náhinglej,	12 Kurli,
4 Hunargi,	13 Akkol,
5 Siddanhál,	14 Muhammadápur,
6 Yernál,	15 Buddalmukh,
7 Pádlehál,	16 Rumtoli,
8 Lakhnápur,	17 Pángra,
6 Gawhán,	18 Girgaon.

The seven (7) following villages of the Karyát Naiz, namely :—

1 Mauza Chikodi,	5 Ammanngi,
2 Peth Chikodi,	6 Naiz,
3 Galatga,	7 Kunnúr,
4 Kotheli,	

The thirteen (13) following villages of the Karyát Nesri, namely :—

1 Peth Daddi,	8 Khavnevádi,
2 Auladhál,	9 Shettihalli,
3 Attehál,	10 Bilki,
4 Rámevádi,	11 Salámváddi.
5 Bedarvádi,	12 Kot,
6 Madga,	13 Dhondgatti.
7 Náganur,	

The village Bágani of the Karyát Dudgaon.

The three (3) following villages of the taraf Haveli Bijapur, namely :—

- 1 Ukmanhál, | 2 Kaulga, | 3 Ahleabad.

The twenty-six (26) following villages of the Tappa Chandgad, namely :—

- | | |
|-------------------|--------------|
| 1 Kasba Chandgad, | 14 Hambera, |
| 2 Kodoli, | 15 Khámdal, |
| 3 Bágálga Dukkar- | 16 Paurla, |
| vádi, | 17 Kokara, |
| 4 Sipur, | 18 Isápur, |
| 5 Sávarda, | 19 Konevádi, |
| 6 Gulvada, | 20 Umgaon, |
| 7 Vágothar, | 21 Návga, |
| 8 Mángaon, | 22 Pilni, |
| 9 Kolindra, | 23 Jámbera, |
| 10 Adúr, | 24 Nahareli, |
| 11 Naundarida, | 25 Bhogoli, |
| 12 Asgaon, | 26 Kolindra. |
| 13 Sula, | |

The four (4) following villages of the Pránt Ráybág, namely :—

- | | |
|------------|-----------|
| 1 Akkevát, | 3 Ingli, |
| 2 Naugaz, | 4 Ankáli. |

The twenty-eight (28) following villages of the Pránt Miraj, namely :—

- | | | | |
|----------------|-----|-----|---------------------|
| 1 Hattánúr | ... | ... | Karyát Tásgaon. |
| 2 Kudchi | ... | ... | |
| 3 Chandúr | ... | ... | Do. Maisal. |
| 4 Qasba Isápur | ... | ... | |
| 5 Chikkalgotan | ... | ... | Karyát Isápur. |
| 6 Nanbalka | ... | ... | |
| 7 Bedaga | ... | ... | Do. Bedaga. |
| 8 Gundevádi | ... | ... | |
| 9 Gaurvád | ... | ... | Do. Shirhatti. |
| 10 Aurvád | ... | ... | |
| 11 Tákli | ... | ... | |
| 12 Brahmanál | ... | ... | Do. Sangli. |
| 13 Padamál | ... | ... | |
| 14 Tung | ... | ... | Do. Degraz. |
| 15 Hingangaon | ... | ... | Do. Kavta Máhankál. |
| 16 Dhámni | ... | ... | Do. Haveli. |
| 17 Vásamba | ... | ... | Do. Kavta. |
| 18 Zarandi | ... | ... | Do. Aaninj. |

19 Kaulaga	Karyát Savarda.
20 Karoli	Do. Desing.
21 Shipur	Do. Ainápur.
22 Bekiri	Do. Jugal.
23 Rájápur	...	...
24 Nandikurli	...	...
25 Kerúr	...	...
26 Yedúr	...	...
27 Kalhola	...	...
28 Sháhápur	...	...

The two (2) following villages of the Pránt Kágál, namely :—

1 Mauzari,

2 Allásanda.

[See Act VI of 1842.]

The thirty-eight (38) following villages, not belonging to any particular pargana or other territorial division, namely :—

1 Saundatti,	20 Alagankop,
2 Kotevada,	21 Bogúr,
3 Hálkusugál.	22 Daustikop,
4 Kalkeri,	23 Hutikottal,
5 Malligvád,	24 Badas,
6 Mugutkhán Hubli,	25 Kukkadolli,
7 Amrápur,	26 Jiknúr,
8 Virápur,	27 Devar Sigehalli,
9 Handúr,	28 Ettagi,
10 Talvárkop,	29 Gandhigvád,
11 Márgankop,	30 Toligi,
12 Kasmalgi,	31 Qasba Hukeri,
13 Amhégápur,	32 Peth Hukeri,
14 Bilámarri,	33 Chuláki,
15 Hulginhál,	34 Goravbál,
16 Keárkop,	35 Kaggadhál,
17 Gazpatti,	36 Gorvankolla,
18 Gádikop,	37 Bassedon,
19 Hattiholi Khurd,	38 Sindgi,

REGULATION XIII A.D. 1830.

A REGULATION for vesting certain jagirdars, saranjamidars and inamdars, with the power of deciding suits within the boundaries of their respective estates.—PASSED by the Governor in Council at Bombay, on the 31st of March 1830, corresponding with the 8th of Chyter Sood Sumbut or Vikramajeet Era 1886, Salbahan 1752, Fusley 1239, Soorsun 1230, and 6th of Shawal 1245, of the Hijree.

[This Regulation is in force throughout the whole of the territories subject to the government of the Governor of Bombay in Council at the date of the passing of Act XV of 1874, except the Scheduled Districts subject to such government. See s. 5 of Act XV of 1874. Extended to Agents of foreign Sovereigns and others by Act No. XV of 1840.]

WHEREAS, in accordance with former custom, and in many instances agreeably to original tenure, jagirdárs, saranjamidars and inámdárs, have been permitted to exercise civil jurisdiction within their possessions; and whereas it has been considered expedient to continue by specific enactments, to such persons, the power of filing, trying and deciding original suits, the following rules have been enacted:—

[Printed as amended by Act XII of 1873.]

Section I.—Clause 1st.—It shall be competent for the Governor in Council to grant sunuds to persons of the description stated in the above preamble, whose names and possessions are enumerated in a list furnished by Government, conferring on them authority to try, and determine all original suits of whatever amount that may be either filed in their Courts, or may be referred to them by the Agent or Judge.

The jagirdars, saranjamidars and inamdars enumerated in a list to be furnished by Government may be allowed sunuds conferring on them authority to try all original suits.

Clause 2nd.—The sunuds shall define the territory or jagir over which the jagirdárs' jurisdiction extends, and be drawn out according to the form marked A, in the appendix.

The sunuds shall define the territory over which their jurisdiction extends.

Clause 3rd.—Such sunuds shall only be granted for life, and without such sunud no jagirdár, saranjamidar or inamdar, shall be considered as having the authority to hear and decide civil actions, unless on arbitration or by consent of the parties.

Such sunuds shall be granted only for life.

Clause 4th.—In granting sunuds, the Government reserves to itself the right of withholding, and, if issued, of afterwards withdrawing them, if from any cause such course should be deemed necessary in particular cases.

Government may withhold or, if issued, withdraw them.

[A sunud issued to an agent of H. H. Holkar under Act XV of 1840 and Regulation XIX of 1830 is not invalidated by the omission to enter the agent's name in any list of exempted or empowered persons under Regulations XXIX of 1827 and XIII of 1830, but the omission to secure to such agent any specific or superior jurisdiction under Regulation

XIII of 1830 prevents his exercising any but the most ordinary which could be exercised under that law. *Sakharam Vithoji v. Sadashiv bin Sayaji*. 1 B. H. C. R. 96.]

All persons within such jurisdiction to bring their civil disputes before them, with certain exceptions.

Section II.—Clause 1st.—All persons residing within the jurisdiction of a *jágirdár*, must bring their civil disputes for adjudication before him, unless, where the parties mutually agree to the contrary; or where one or the other is an European or American; or where one being the relation or dependent of the *jágirdár*, the other objects on that ground.

Suits thus excepted shall be sent up to the Agent or Judge for disposal.

Clause 2nd.—Suits thus excepted shall be sent up to the Agent or Judge, who will dispose of them, either by trying them, or by referring them for trial.

[Printed as amended by Act XII of 1873.]

The *jágirdars* shall pass a written decree &c.

Clause 3rd.—The *jágirdár* shall pass a written decree, recording the proceedings held, and his judgment, on every action or suit tried before him.

The decisions of the *jágirdars* enumerated in the list furnished by Government shall be final.

Section III.—Clause 1st.—Decisions passed by the *jágirdars*, enumerated in the list furnished by Government shall, in conformity with their right and authority by tenure, be final.

Of all other *jágirdars* shall be open to appeal according to the Regulations regarding Sardars of the 1st, 2nd and 3rd classes.

Clause 2nd.—The decisions of all other *jágirdars* shall be open to appeal, according to the rules regarding appeal, if in the first and second class of Sardars of the list, provided for by clause second, Section 3, Regulation XXIX of 1827, to the Agent for the adjustment of Sardar's claims; if of the third class of the said list, to the Judge.

Decisions by these authorities on these appeals shall in certain cases be open to the Suddur Adawlut.

Clause 3rd.—Decisions by these authorities in these appeals shall be open to the Suddur Dewannee Adawlut, when, if the original judgment is confirmed, the amount adjudged or at issue is rupees (1,000) one thousand; if modified or reversed, the amount at issue is rupees (200) two hundred.

['open to' evidently must be 'open to appeal to.']

Decision by a *jágirdar* shall not be liable to be set aside for want of form.

Clause 4th.—Decrees by a *jágirdár* shall not be liable to be set aside for want of form in the proceedings; but only for matters affecting the justice of the decision.

Jágirdars shall have authority to execute their own decrees and applications for execution of decrees refused by the *jágirdars* may be disposed of by the Agent or Judge.

Section IV.—*Jágirdars* shall have authority to execute their own decrees, and application for execution of decrees refused by the *jágirdár*, may be received by the Agent or Judge.

[Printed as amended by Act XII of 1876.]

Section V.—A special appeal is open in all cases to the Suddur Dewannee Adawlut.

[Printed as amended by Act XII of 1878.]

Special appeal open in all cases to the Suddur Adawlut.

APPENDIX A.

(See Section I, Clause 2nd.)

Form of Sunud to be granted to a Jágirdár, Saranjámidár or Inámdár for deciding Suits.



The Honourable the Governor in Council, by virtue of the powers vested in him by Regulation XIII of 1830, is pleased, hereby to confer on you

jágirdár (or as the case may be) power to receive, try, and decide all such original suits as may be preferred to you for movable or immovable property of whatever amount, or referred to you by the Agent or Judge, whereof both parties, or the defendant or defendants, in such suits shall be resident within the boundary of your jágir, &c., as hereafter defined ; provided, such parties shall not mutually agree to the contrary, or one or other of them shall not be an European or American ; or, being your own relation or dependent, the adverse party shall not object on that account.

The boundaries of your jágir, over which your jurisdiction, as above set forth, extends, are hereby defined to be

The within delegated power is vested in you during the pleasure and subject to the recall of the Honourable the Governor in Council.

REGULATION I A.D. 1831.

A REGULATION for extending the jurisdiction of the Agent of Government, acting under the provisions of Section 4, Regulation XXIX of 1827, over suits in which persons of rank of the privileged classes are concerned, and which are now cognizable by the Collectors of Land-revenue.—PASSED by the Governor in Council of Bombay on the 5th of January 1831, corresponding with the 7th of Poush-Vud-Sumbut or Vikramajet Era 1887, Salbahan 1752, Fusly 1240, Soorsun 1231, and 20th Rujub 1246 of the Hijree.

WHEREAS it has been deemed expedient to extend the jurisdiction of the Agent of Government, acting under the provisions of Sec-

Preamble.

tion 4, Regulation XXIX of 1827, to suits connected with land, its rent and produce, wherein persons of rank of the privileged classes, established by that Regulation, are concerned; the following rules have accordingly been enacted:—

[Printed as amended by Act XII of 1873.]

Suits connected with land, its rent and produce in which persons of rank of the privileged classes in the Dekkhan are concerned, shall be cognizable only by the Agent.

Section I.—Suits connected with land, its rent and produce, wherein persons of rank of the privileged classes, established by Regulation XXIX of 1827 are concerned, shall hereafter be cognizable only by the Agent of Government acting under the powers vested in him by Section 4, Regulation XXIX of 1827, and under the same rules as are prescribed for his guidance in other cases.

[See Regulation XVI of 1831. Printed as amended by Act XII of 1873.]

REGULATION XVI A.D. 1831.

A REGULATION for extending the jurisdiction vested in the Political Agent in the Southern Marátha Country, under the provisions of Section 5, Regulation VII A. D. 1830, to the cognizance of civil suits of the nature specified in Regulation I. A. D. 1831, and also for the better defining the extent of jurisdiction therein conferred, with respect to persons of the privileged classes.—*PASSED* by the Right Honourable the Governor in Council of Bombay on the 14th day of September 1831, corresponding with the 8th Bhadrupad Sood Sumbut or Vikramajet Era 1887, Salbahan 1753, Fusly 1241, Soor-sun 1237, and 7th Rubee-ul-Akhur 1242 of the Hijree.

Preamble.

WHEREAS it has been deemed expedient to extend to the Political Agent in the Southern Marátha Country, as Agent of Government, the cognizance of suits of the nature specified in Regulation I, A.D. 1831, and to define more expressly the extent to which such suits shall be cognizable before the Agent of Government; the following rules have therefore been enacted;

[Printed as amended by Act XII of 1873.]

Suits of the nature specified in cl. 1, s. 1, Reg. I, A.D. 1831, also declared cognizable before the Political Agent of the Southern Marátha Country.

Section I.—Suits of the nature specified in clause first, Section I, Regulation I. A. D. 1831, shall also be cognizable before the Political Agent in the Southern Marátha country, as Agent of Government, and shall be tried by him in the same manner, and under the same rules as are prescribed for his guidance in Section 5, Regulation VII A. D. 1830.

[Printed as amended by Act XII of 1873.]

Section II.—And it is further explained, with reference to clause first, Section I, Regulation I A. D. 1831, that such suits shall be cognizable before the Agents of Government only when the persons of the rank of the privileged classes shall, in the original suit, stand in the relation of defendants.

The provisions of cl. 1, s. 1, Reg. I A. D. 1831, explained to be applicable to such suits only wherein the persons of the privileged classes are defendants.

REGULATION I A. D. 1834.

A REGULATION for abolishing the office of Deputy Agent for Sardárs in the Dekkhan, ~~and for rescinding Regulation V of 1828, which defines the duties and jurisdiction of that office.~~ *The words are repealed by Act of 1874* **PASSED** by the Right Honourable the Governor in Council of Bombay, on the 15th day of January 1834, corresponding with 5th Poush Sood Sumbut or Vikramajet Era 1890, Salbahan 1755, Fusly 1243, Soorsun 1234, and 4th Ramzan 1249 of the Hijree.

[Although sec. 1, which rescinds Regulation V of 1828, is repealed, curiously enough, that part of the title which refers to sec. 1 is still allowed to stand.]

WHEREAS it having been determined by Government to abolish *Preamble.* the office of Deputy Agent for the adjustment of claims against Sardárs in the Dekkhan, the following rules have been enacted to have effect from the date of promulgation.

Section I.—[Repealed by Act XII of 1873.]

Section II.—*Clause 1st.*—Suits of the description heretofore tried by the Deputy Agent, shall be heard and decided by the Agent.

Suits hitherto tried by the Deputy Agent shall be heard and decided by the Agent.

Clause 2nd.—[Repealed by Act No. XII of 1873.]

PART II.

THE UNREPEALED ACTS OF THE SUPREME COUNCIL SOLELY RELATING TO BOMBAY.

. . . ACT No. XIX OF 1835.

*Passed by the Hon'ble the Governor General of India in Council
on the 9th of November 1835.*

BE it enacted, that it shall be competent for the Governor in Council of Bombay, to appoint the Assistant Judge of the Zilla Court of Poona to be assistant to the Agent for Sardárs in the Dekkhan, and it shall be competent to the Agent for Sardars, to refer to his assistant, original suits against Sardárs for amounts not exceeding 5,000 rupees, and every decree of the assistant shall be open to an appeal to the Agent within (30) thirty days from the date of the decree ; and every decision of the Agent on such appeal shall be open to a special appeal to the Governor in Council, or to the Suddur Adawlut, according as the rank of the Sardár may subject him to the jurisdiction of either authority, provided such last-mentioned appeal, shall be brought within (90) ninety days after the date of the decree of the Agent.

[Printed as amended by Act XII of 1891, sch. I]

Procedure in
appeals to Gov-
ernor of Bom-
bay in Council.

2.—The provisions of the Code of Civil Procedure relating to appeals to a High Court from decrees passed in appeal shall apply, so far as may be, to appeals to the Governor in Council under this Act.

[Added by Act XII of 1891, sch. II.]

ACT No. VII OF 1836.

*Passed by the Hon'ble the Governor General of India in Council
on the 28th of March 1836.*

[Repealed by Act VIII of 1868, except as regards duties leviable on salt or opium.]

I.—IT is hereby enacted, that the legality of acts done and levies made under Regulations III and IV of 1817, and VII of 1818, and IV of 1821, and XIX, XX and XXI of 1827, and XV of 1828, and XX of 1830 and II and XIII of 1831, and I and X of 1833 of the Bombay Code, shall not be questioned in any Court of law whatever.

*Repealed by
Act VIII of
1868*

[See Act XXIII of 1876, s. 2, and Stat. I of 1878, s. 2.]

ACT No. XVI OF 1838.

*Passed by the Hon'ble the President of the Council of India
in Council on the 23rd of July 1838.*

[This Act is in force throughout the whole of the territories subject to the government of the Governor of Bombay in Council at the date of the passing of Act XV of 1874, except the Scheduled Districts subject to such government. See s. 5, Act XV of 1874.]

I.—Clause 1st.—In the territories subject to the Presidency of Bombay, all suits in regard to tenures, and the nature and extent of the interest and advantage which in virtue thereof should be enjoyed by the parties concerned, and all suits in which the right to possession of land is claimed, shall be brought in the Courts of Adáwlut and the Courts subordinate thereto, and not in the Courts of revenue.

[Printed as amended by Acts XIV of 1870 and X of 1876.]

Clause 2nd.—[Repealed by Bombay Act No. III of 1876.]

Clause 3rd.—[Repealed by Bombay Act No. II of 1866.]

[Although the Collector's Court was the only Revenue Court contemplated by Regulation XVII of 1827, since Act XVI of 1838 the Mamlatdar's Court was always regarded as a Revenue Court empowered to deal with possessory suits, and in construing that Act the maxim *optimus legis interpres consuetudo* should be applied. I. L. R. 14 Bom. 373, *Bapu v. Baji*. A defendant cannot, by setting up a title in himself in a rent suit, oust the jurisdiction of a Revenue Court, nor does the suit by such a defence become one "in which the right to possession of land is claimed" within the meaning of this section. *Bai Mahalwami v. Anulharu Keshavram*, 12. B. H. C. R. 185. The Civil and Revenue Courts have concurrent jurisdiction to hear and decide suits in regard to immediate possession. *Ex-parte Nagora*, 3 B. H. C. R., A. C. J. 108; but not in a case which refers to boundary disputes. *Narayan v. Dhondu*, 4 B. H. C. R., A. C. J. 167.]

II.—If a suit be presented in the Court of a Judge or Collector, which such Judge or Collector shall not deem within his jurisdiction, the party presenting such suit shall be referred by the Court, in which it may be first presented to that in which, in the opinion of such Court, the jurisdiction lies, and the latter Court shall, in the event of its doubting its jurisdiction in the case, refer the question of jurisdiction to the Suddur Dewánnée Adáwlut, whose decision on the point shall be final.

[Printed as amended by Act XVI of 1874.]

III.—If a suit be presented in any Court subordinate to the Court of a Judge or Collector, which suit such subordinate Court shall not deem to be within its jurisdiction, such subordinate Court shall submit the case to the Judge's or Collector's Court to which such subordinate Court is subordinate; and if the superior Court to which the case is so submitted shall be of opinion that such subordinate Court has jurisdiction in the case, such superior Court shall direct such subordinate Court to proceed with the case, and if such superior Court shall be of opinion that such subordinate Court has

not jurisdiction in the case, such superior Court shall proceed in the manner directed in the last preceding section.

[Printed as amended by Act XVI of 1874.]

IV.—Whenever a Court of Adawlut or a Revenue Court shall have entered on its file, under this Act, a suit in which it has not jurisdiction, it shall be competent to the Suddur Dewannee Adawlut, either on a reference from the Judge or Collector (as the case may be), or on application from the parties, to direct that the suit be transferred, with all the proceedings which may have taken place therein up to the period of transfer, to the Court possessing jurisdiction, which shall proceed therewith as if the suit had been originally filed in that Court.

[Printed as amended by Act XVI of 1874.]

V.—When any Court trying an appeal finds that the action was originally brought and decided in a Revenue Court, when it ought to have been brought and decided in a Court of Adawlut, or a Court subordinate thereto, or that the action was originally brought and decided in a Court of Adawlut, or a Court subordinate thereto, when it ought to have been brought and decided in a Revenue Court, the Court trying the appeal shall, instead of quashing the whole proceedings, annul only the decree and refer the suit to be tried in the Court to which the jurisdiction properly belongs, and the Court trying any such case referred under the foregoing section shall take further pleadings, exhibits and evidence only if it deem such necessary, and shall pass a new decree.

[Printed as amended by Acts XIV of 1870 and XVI of 1874.]

VI.—[Repealed by Act XVI of 1874.]

ACT No. XIX OF 1838.

*Passed by the Hon'ble the President of the Council of India
in Council on the 27th August 1838.*

[This Act is in force throughout the whole of the territories subject to the government of the Governor of Bombay in Council at the date of the passing of Act XV of 1874, except the Scheduled Districts subject to such government. See s. 5, Act XV of 1874.]

This Act does not conflict with the Merchant Shipping Act 1854. *Emp. v. Jamudin*, I. L. R. 14 Bom. 171.]

I.—[Repealed by Act XIV of 1870.]

II.—The following rules shall be in force with respect to vessels belonging to any of Her Majesty's subjects residing within the Presidency of Bombay, and employed on the coasts of the territories subject to the Government of Bombay, or in trading coast-wise, as also with respect to fishing-vessels and harbour-craft belonging to any of the same Her Majesty's subjects.

[Printed as amended by Act XVI of 1874, Sch.]

III.—Every such vessel employed as aforesaid, fishing-vessel, and harbour-craft shall be marked or branded with the name of the place to which she belongs, and also with a number assigned for the same, by the officer authorized to make such registry as is hereinafter mentioned, and the owner or owners of such vessel employed as aforesaid fishing-vessel, and harbour-craft, shall cause such name and number to be painted in black paint upon a white ground, on each quarter of such vessel employed as aforesaid, fishing-vessel, and harbour-craft, in English figures and letters, each figure and letter being six inches in length.

[Printed as amended by Act XVI of 1874, Sch.]

IV.—The name and number of every such vessel employed as aforesaid, fishing-vessel, and harbour-craft, and her burthen, and also the name or names of the owner or owners thereof, shall be registered in a book, to be kept for that purpose, by the person hereinafter directed to make such registry. At Bombay, such registry shall be made by the Master-Attendant, and at other places within the said territories, by the Collector of Sea-customs at such places respectively, or by such other person, as shall be appointed by the Government of Bombay to act at such places respectively, in the execution of this Act; and whenever any change shall take place in the burthen of such vessel employed as aforesaid, fishing-vessel, or harbour-craft, or in the name or names of the owner or owners thereof, such registry shall be made again: provided, however, that it shall not be lawful to give any name to such vessel employed, as aforesaid, fishing-vessel or harbour-craft, other than that by which she was first registered.

[Printed as amended by Act XVI of 1874, Sch. See Act X. of 1841. The burthen of a ship is its carrying capacity—the number of tons it will carry. When, therefore, a vessel's bulwarks are raised by an additional structure of a temporary nature only to protect the cargo from sea, there is no change in the burthen of a vessel necessitating the taking out a fresh certificate of registry, and the omission to do so cannot be punished under sec. 13. *Emp. v. Jamudin*, I. L. R. 14 Bom. 171.]

V.—The owner or owners of every such vessel employed as aforesaid, fishing-vessel, and harbour-craft, shall apply to the person authorized to make such registry in respect of the same, in order to have such registry as aforesaid made, or in order to have such registry made again as aforesaid. And whenever such vessel employed as aforesaid, fishing-vessel, or harbour-craft, is registered at a subordinate port, information thereof, and of the number there assigned to her, shall immediately be given by the registering officer to the Master-Attendant at Bombay.

[Printed as amended by Act. XVI of 1874, Sch.]

VI.—The duty of marking or branding, and of ascertaining the burthen of, such vessels employed as aforesaid, fishing-vessels and harbour-craft, at Bombay, shall be performed by the Master-At-

tendant ; and at all other places, within the territories subject to the Government of Bombay, the duty of marking or branding, and of ascertaining the burthen of, such vessels employed as aforesaid, fishing-vessels, and harbour-craft shall be performed by the Collector of Sea-customs at such places respectively; or by such other persons as shall be appointed by the Government of Bombay to act at such places respectively, in the execution of this Act.

[Printed as amended by Act XVI of 1874, Sch.]

VII.—The owner or owners of every such vessel employed as aforesaid, fishing-vessel, and harbour-craft, shall apply for and obtain a certificate of registry from the person authorized to make such registry as aforesaid, and such certificate shall be in the form specified in the schedule appended to this Act ; and in the case of any certificate being lost or destroyed, a renewed certificate may be obtained in the same manner, and on payment of the fees herein-after mentioned.

[Printed as amended by Act XVI of 1874, Sch.]

VIII.—Such certificate of registry shall be sealed with the seal of the East India Company, and shall be signed by the person authorized to make such registry.

[Printed as amended by Act XVI of 1874, Sch.]

IX.—[Repealed by Act XII of 1876.]

X.—The owner or owners of such vessels, employed as aforesaid, (fishing-vessels and harbour-craft being excepted), on being registered as aforesaid, shall pay—

for each certificate of registry for a vessel not exceeding
20 Bombay khandis burthen, the fee of 1 rupee.
for each certificate for a vessel exceeding 20 such khandis burthen and not exceeding 100 khandis burthen... 5 rupees.
for each certificate for a vessel exceeding 100 such khandis burthen and not exceeding 400 khandis burthen 7 „
and for each certificate for a vessel of 100 tons, or greater burthen, per ton 2 annas.

[Printed as amended by Act XVI of 1874, Sch.]

XI.—The person or persons so authorized to make such registry as aforesaid shall receive the fees payable for the same, and shall pay such fees to such officer as the Governor of Bombay in Council shall appoint ; the same to be carried to the credit of the Government of Bombay.

[Printed as amended by Act XVI of 1874, Sch.]

XII.—The owner or owners or commander of every such vessel employed as aforesaid, fishing-vessel and harbour-craft shall produce, on demand thereof by any officer of the customs within the said

territories, or by any officer of the Navy, the certificate so directed to be applied for and obtained, in respect of such vessel employed as aforesaid, fishing-vessel, or harbour-craft, as abovementioned.

[Printed as amended by Acts XVI of 1874 and XII of 1876.]

XIII.—In case any such vessel employed as aforesaid, fishing-vessel, or harbour-craft, shall not be so marked or branded, in all respects as hereinbefore directed; or in case the name and number of any such vessel employed as aforesaid, fishing-vessel, or harbour-craft, shall not be so painted, or shall not continue so painted, on such vessel employed as aforesaid, fishing-vessel, or harbour-craft, in all respects as hereinbefore directed; or in case any such vessel employed as aforesaid, fishing-vessel, or harbour-craft, shall not be furnished with such certificate as hereinbefore specified, or in case the owner or owners or commander of any such vessel employed as aforesaid, fishing-vessel, or harbour-craft, shall not produce such certificate on demand thereof as hereinbefore directed; the owner or owners of every such vessel employed as aforesaid, shall be subject to a fine of ten times the amount of the fees payable, in respect of the certificate of registry of such vessel, the same being a vessel for the certificate of the registration of which any fee is payable, and the owner or owners of any such fishing-vessel, or harbour-craft, shall be subject to a fine of ten rupees; which fines may be recovered on conviction before any Magistrate having jurisdiction within the said territories by sale of such vessel, fishing-vessel, or harbour-craft, her furniture, ammunition, tackle and apparel and such fines shall be payable as often as the owner or owners or commander of any such vessel employed as aforesaid, fishing-vessel, or harbour-craft, shall make such default as aforesaid, provided every such subsequent default be made after the expiration of one month from the date of the last conviction.

[Printed as amended by Acts XVI of 1874 and XII of 1876. See note to Section 4.]

A magistrate F. P. alone has jurisdiction to convict under this section. *Reg. v. Kasamji*, 5 B. H. C. R. Cr. Ca. 6.

The words "subject to a fine of ten times the fee," or "subject to a fine of ten rupees," show an intention that the penalties specified should be levied in full. *Empress v. Mhasnya*, I. L. R. 7 Bom. 280.]

XIV.—The Governor of Bombay in Council may direct compensation for trouble and diligence in seizing such vessel employed as aforesaid, fishing-vessel or harbour-craft, guns, furniture, tackle, ammunition and apparel, as last mentioned, to be made, out of the proceeds of such seizure, to the person or persons who shall have seized the same, to such amount, in such manner, and in such shares or proportions the said Governor in Council shall seem meet.

[Printed as amended by Act XVI of 1874.]

XV.—[Repealed by Act XII of 1876.]

SCHEDULE.

This is to certify that *(here insert the names, occupation and residence of the owners)* having declared, that *(he or they)* are ~~sole owner or owners~~ of the vessel *(fishing-vessel or harbour-craft)* called *(the name)*, which is of the burthen of *(number of Bpmbar khandis)* and that the said vessel *(fishing-vessel or harbour craft)* was *(where and when built)*, the said vessel *(fishing-vessel or harbour-craft)* has been duly registered at the port of, *(name of port.)*
 Certified under my hand.

Signature of officer.

ACT No. XX OF 1839.

*Passed by the Hon'ble the President of the Council of India
 in Council on the 29th July, 1839.*

[This Act is in force throughout the whole of the territories subject to the government of the Governor of Bombay in Council at the date of the passing of Act XV of 1874, except the Scheduled Districts subject to such government. See s. 5, Act XV of 1874.]

I.—It shall be lawful for the Governor in Council of Bombay to issue orders prohibiting the levy of hucks and fees of every description, and customs, whether by land or sea, enjoyed by holders of rent-free lands or other persons, and of alienated shares of any item of revenue after the abolition or relinquishment thereof by Government.

[Printed as amended by Act XVI of 1874, Sch. A claim to recover *nuktah*, which is a cess on land, does not come under Act XX of 1839. 1871, P. J., 7th July. The difference between this Act and Act XX of 1844 is that instead of leaving *Haks* to be abolished at different times under this Act, that of 1844 entirely abolishes them. *Nusservanji v. The Deputy Commissioner of Customs*, 2 B. H. C. R., 75. For orders issued under this section, see 1841 G. G. 20; 1842 G. G. 68; 1843 G. G. 489; 1850 G. G. 1300; 1860 G. G. 656; 1868 G. G. 107 and 858; 1869 G. G. 26; 1870 G. G. 945, 1017, 1297; 1871 G. G. 924; 1872 G. G. 718, 1015; 1873 G. G. 130, 503; 1876 G. G. 544, 871; 1879 G. G. 1.]

II.—The legality of any orders which may have been heretofore issued, or of any orders which conformably with this Act, hereafter shall be issued by the Governor in Council of Bombay for prohibiting the levy of any such hucks, or fees, customs or alienated shares of any such item of revenue as aforesaid, shall not be questioned in any Court of law.

[Printed as amended by Act XVI of 1874, Sch.]

III.—Whoever shall levy any such hucks, fee, customs or item of revenue after any such order prohibiting the same as aforesaid shall have been published in the Government Gazette of the Presidency of Bombay, and by notice fixed at the post or place at which it has heretofore been claimed, or collected, shall be

whether he is or is not a revenue officer of Government

*amended
by Act IX of
1894*

A punishable as for an undue exaction under Regulation XVII of 1827, Section 16, of the Bombay Code, notwithstanding the offender be not a Revenue officer of Government. *with imprisonment*

[Printed as amended by Act XVI of 1874, Sch.]
for a term which may extend to seven years & shall also be liable to fine not exceeding ten times the amount of the sum so levied.

ACT No. XV OF 1840.

*Passed by the Right Hon'ble the Governor General of India
in Council on the 29th of June, 1840.*

An Act for extending Regulations XV of 1827 and XIII of 1830, of the Bombay Code, to the Agents of Foreign Sovereigns.

[This Act is in force throughout the whole of the territories subject to the government of the Governor of Bombay in Council at the date of the passing of Act XV of 1874, except the Scheduled Districts subject to such government. See s. 5 of Act XV of 1874. See note to Regulation XIII of 1830.]

It is hereby enacted, that the provisions of Regulations XV of 1827 and XIII of 1830 of the Bombay Code, be made applicable to the Agents of foreign Sovereigns having lands and possessions in the British territory of the Bombay Presidency, and to guardians and such other individuals as the Governor in Council of Bombay may consider it expedient to invest with the powers contained in the aforesaid Regulations: provided that in all cases the authority conferred shall be revocable at the direction of the Governor in Council of Bombay.

[Repealed, so far as it relates to Bombay Regulation XV of 1827, by Act No. XVI of 1874.]

ACT No. XIX OF 1844.

*Passed by the Governor General of India in Council
on the 14th September, 1844.*

An Act for abolishing town-duties and mukáts, and all taxes upon trades and professions within the Presidency of Bombay.

[This Act is in force throughout the whole of the territories subject to the government of the Governor of Bombay in Council at the date of the passing of Act XV of 1874, except the Scheduled Districts subject to such government. See s. 5 of Act XV of 1874. See note to Act XX of 1839, s. 1.]

It is hereby enacted, that from the first day of October 1844, all town duties, kasab veros, muhtarafas, baluteh taxes and cesses of every kind on trades or professions, under whatsoever name levied within the Presidency of Bombay, and not forming a part of the land revenue, shall be abolished.

[A suit to recover *Rabla* from village *Mhars*, who are such by birth and residence and not in virtue of any particular business which they individually carry on, does not fall within the provisions of this Act, whatever pursuits the *Mhars* happen to follow in order to gain their subsistence; such claim being independent of their trades or professions. *Hanmantrao v. Koru*, 1875, P. J., 291.]

Act XIX of 1844 has no bearing whatever on a question whether the plaintiff is entitled to a *hak* or fees in respect of marriages amongst members of the defendant's caste. *Apava v. Rama*, I. L. R., 3 Bom., 210.

A *lāgo* of two annas per candy on all cotton brought in and exported from any town, paid by the buyer, according to the usage from time immemorial, to a temple in the town does not come under the head of "town duties," although that expression is not to be confined to duties appropriated by law or custom to municipal purposes, but extends to duties or cesses on goods brought into, or carried out of, a town, although levied by private persons. However, the expression "cesses or trades and professions" is not to be confined to cesses in the nature of license duties for carrying on trades and professions and would cover a *lāgo* of this nature. *Shri Kalyanraji v. The Mofussil Company, Limited* I. L. R., 14 Bom., 526.]

ACT No. XI OF 1846.

Passed by the Hon'ble the President of the Council of India in Council on the 12th of December 1846, with the assent of the Right Hon'ble the Governor General of India.

An Act for the exemption of certain territory in the Province of Khándesh from the operation of the general Regulations.

[Repealed (except as to the Scheduled Districts, Bombay) by Act No. XIV of 1874.

Printed as amended by Act XII of 1876, Sch.]

WHEREAS it has been deemed expedient to exempt from the jurisdiction of the civil and criminal Courts of the Bombay Presidency certain portions of the parganas of Nandurbár, Sultánpur and Kukarmunda in the Province of Khándesh :

[Printed as amended by Act XII of 1876, Sch.]

I.—It is hereby enacted, that from and after the first day of February, 1847, so much of appendix A of Regulation XXIX of 1827 of the Bombay Code as declares the villages contained in the schedule annexed to this Act, and the lands attached thereto (being parts of the parganas of Nandurbár, Sultánpur and Kukarmunda, in the Province of Khándesh), subject to the Regulations established for the administration of civil and criminal justice in the Bombay Presidency, be repealed.

[Printed as amended by Act XII of 1876, Sch.]

II.—From and after the said day the administration of civil and criminal justice, the superintendence of the Police and the collection and superintendence of the revenues of every description within the said portions of territory shall vest in such Agent to the Governor of

Bombay as shall be appointed by the Governor of Bombay in Council, and shall be exercised by the said Agent with the aid of such assistants as may be appointed by the said Governor in Council.

[Printed as amended by Act XVI of 1874, Sch.]

III.—It shall be competent to the said Governor in Council, by an Order in Council, to prescribe such rules as he may deem proper for the guidance of the Agent aforesaid and of all the officers subordinate to his control and authority, and to determine to what extent the decision of the Agent in civil suits, shall be final, and in what suits an appeal shall lie to the Suddur Dewánnee Adáwlut, and to define the authority to be exercised by the Agent in criminal trials and what cases he shall submit to the decision of the Suddur Faujdári Adawlut.

[Printed as amended by Act XVI of 1874, Sch. Where certain accused persons, who had committed an offence in the village of Gulamba, and been convicted and sentenced by the Agent to the Governor of Bombay in Mevás Estate of Nal, referred to in Sch. 1, Part II (IV) of Act XIV of 1874, appealed to the High Court under Rule 44 of rules framed by Government under Section 3 of Act XI of 1846; held that rule 44 was *ultra vires* of Government, because no power was given by the Act of 1846 to confer appellate powers on the Suddur Faujdari Adawlut, and the rule being invalid cannot be continued under section 7 of Act XIV of 1874, and that, therefore, no appeal lay to the High Court. *Imp. v. Sarya valad Vesla*, Cr. R. 18th February 1890.]

IV.—Upon the receipt of any criminal trials referred by the Agent under the rules which may be hereafter prescribed by the Governor in Council, the Suddur Faujdári Adawlut shall proceed to pass a final judgment, or such other order as may, after mature consideration, seem to the Court requisite and proper, in the same manner as if the trial had been sent up in ordinary course from a Session Judge.

[Printed as amended by Act XVI of 1874, Sch.]

V.—Upon the receipt of any appeal from a decree of the Agent duly prepared under the Rules to be prescribed as aforesaid, the Court of Suddur Dewánnee Adáwlut shall proceed to try and determine it in the same manner as appeals from the zilla Courts.

[Printed as amended by Act XVI of 1874, Sch.]

SCHEDULE.

List of villages belonging to the seven Mevās Chieftains in the Province of Khandesh comprehended in the parganas of Nandurbár, Sultánpur and Kukarmunda.

Names of Chiefs.	Inhabited.
1 Ganpat Sing Valad Chandrasing, Rána of Budhával.	Dekáti, Halalpur, Budhávali, Khushgawhán, Ashte, Khár, Mendvad, Jámligura, Válheri, Budhával, Lobáhláni, Somával Buzurg, Mathával, Shervi, Ekdhor, Relápára.
	Uninhabited. Navágaom, Somával Khurd, Bho Bhát, Pratáppur, Navalpur, Rájvira, Kalambí Vihir, Ghoghát, Rámgad, Pethápur.
2 Umed Valad Laxshman Párví of Káti.	Inhabited.
	Káti, Bhagdori, Vanva, Jámná, Bir, Sámar, Kajál, Velkhuri, Mogribár, Gorápibár, Nalvanbára, Jágti, Aruti, Kivari, Chápri, Pándhrimáti, Pimparkhuta, Surgas, Bijalgawhán, Bálaghát, Vehagi, Chanvái, Bálkra, Gojibára, Ogháni, Danái, Surpánvavi, Sari, Kankál, Koili Vihir, Sonáchi párdi, Kakarpára, Ghatváni, Rájmohi, Khatás Khári, Khái, Hiráni, Dáb, Dahel Murira, Vádi, Kadváli, Gadváni, Bokhári, Polgawhán, Umti, Veri, Pimparpán, Maichámál, Mogri, Bahmani, Somkhári, Rás, Ghattala, Mogra, Mulgi, Bharkund, Veli, Umrigawhán, Jámlí, Bhágrápán, Umla, Rául K., Sendri, Kukripádar, Kajáni, Honákhámb, Gallota Buzurg, Navágaon, Gangápur, Kevára Mohi.
	Uninhabited. Khatkuva, Báhmangaon, Gallotta Khurd, Akal Kuva, Horápára, Ankushi Vihir, Gawháni, Pevti, Mojra, Dhánkbári, Kotli, Mahán, Dhobripita, Taláv, Chikhli, Ghora Devi, Kuva, Kolvi, Kolvichmál, Nendvan, Pátpára, Kalmanda, Varphalli, Bhatári, Pok Khára.
3 Umed Valad Pácha Párví of Nál.	Inhabited.
	Gulyámba.
	Uninhabited.
	Nál. Virpur. Navágaon.
	Sáne Vihir. Jiri Sávar. Tanak Moli.

Names of Chiefs.	Inhabited.
4 Bikna Valad Ráila Párví of Singpur.	Singpur Buzurg. | Singpur Khurd. • | Uninhabited. Bábhalpur. |
5 Khátia Valad Nána Valvi Bhil of Gawháli.	Inhabited. Gawháli, Bár, Pihrido Kakriámba, Hatvaryávar, Morki, Nágar Moti, Rájkura, Raisingpura, Udan, Bherivoa. • | Uninhabited. Pándhripára, Dodav, Lálpur, Korkher, Karkhund, Bakhtár, Pála, Bhuyaváv, Kákarhor, Rájni, Khurd Mahukhári, Kuvarváv, Tálamba, Varkund, Kumri, Khargia Moramba, Borigawhán, Bhometi, Kálámba, Phulvádi, Kelvan, Bhoi Karaj, Dorki, Jámva, Gotpára, Jujav, Ukalsár, Rájniabára, Ambabar, Borki Dokhi, Mátha Kund, Gagriámba, Lálbhardi, Junátána, Maborám, Kádli, Gondvan, Ghoda, Mándára Khurd, Mándára Buzurg, Bhogvad, Guji, Mahukhári Buzurg, Vajpur, Tálámba, Jámna, Shindgawhán, Kániámba, Mográpána, Kalevarkhurd, Rámpura, Kunda, Junvan, Bugniámba, Shingvan, Kaniamba, Kondvápára, Kánápára, Kotára, Párdi, Kevribár, Bhuera, Gawhán, Korádevi, Jámkhut, Amligowhán, Máthámba, Mátha Mogar, Máta Tána, Udupur.
6 Kuvar Vasava Valad Jiva Vasava Bhil of Chikhli.	Inhabited. Chikhli, Jhiribera, Pátipára, Chátupára, Ranepura Khápar, Gangtha, Lagri, Jávli, Koliváda, Palásváda, Umán. • | Uninhabited. Jhápa Amli, Khánora, Koktipára, Khayerpára, Chánpur, Umráni, Vadgaon, Choti Raráli, Bráhma-gaom, Kavligawhán, Bholvad, Dhábura, Mendi, Sojdán, Kenvada, Khekvad, Dábriámba, Augat, Rethi, Cháptipára, Rájnivád, Umáni, Navágaon, Naken Sevri, Nevri, Umjia.
7 Rája Valad Veslia Párví.	Uninhabited. Sojdán. | Navalpura.

ABSTRACT.

	Names of Chieftains.	Inhabited.	Uninhabited.	Total Villages.
1	Ganpat Sing, Valad Chandra Sing Rána of Budhával.	16	10	26
2	Umed Valad Lakshman Párví, of Káti	71	25	96
3	Umed Valad Pácha Párví of Nál ...	1	6	7
4	Bikna Valad Raila Párví of Singpur.	2	1	3
5	Khátia Valad Nána Valvi Bhil of Gawháli	11	70	81
6	Kuvar Vasáya Valad Jiva Vasáya Bhil of Chikhli	12	25	37
7	Rája Valad Veslia Párví ... ..	...	2	2
Total ...		113	139	252

ACT No. XI OF 1852.

*Passed by the Governor General of India in Council on the
13th February, 1852.*

*An Act for the Adjudication of Titles to certain Estates claimed
to be wholly or partially Rent-free in the Presidency of
Bombay.*

[A claim to the meane profits of which a claimant might be deprived by the decision of the Inam Commissioner's Court cannot give rise to a cause of action cognizable by a Civil Court. *Janardhan v. The Secretary of State*, 1892, P. J., 151.]

WHEREAS in the territories of the Dekkhan, Khandesh and Southern Mahrátta Country, and in other districts more recently annexed to the Bombay Presidency, claims against Government on account of ináms and other estates wholly or partially exempt from payment of land-revenue are excepted from the cognizance of the ordinary civil Courts, ~~and incapable of being justly disposed of under the rules for the determination of titles, and the rules of procedure contained in chapters IX and X of Regulation XVII of 1827 of the Bombay Code and their supplements~~; and whereas it is desirable that the said claims should be tried and determined without further delay; it is declared and enacted as follows:—

I.—The rules in chapters IX and X of Regulation XVII of 1827, and in clause 1 of Regulation VI of 1833, of the Bombay Code, do not apply to any of the districts of the Bombay Presidency which

*The words
Repealed by
Act II of 1894*

*Sec I is repealed by
Act II of 1894*

were not brought under the General Regulations of Government by Regulation XXVIII of 1827 of the Bombay Code.

[Printed as amended by Act XVI of 1874.]

The words repeated by Act 16 of 1894
II.—The Governor of Bombay in Council may appoint in any zilla or other division of the territories subject to the Presidency of Bombay, which were not brought under the General Regulations of Government by ~~the said~~ Regulation XXVIII of 1827, an Inám Commissioner with so many assistants, and such subordinate establishment, as may be necessary for the purposes hereinafter mentioned.

III.—The duties of each Inám Commissioner and his assistants shall be discharged according to the rules in schedule A annexed to this Act.

[The decision of the Inám Commissioner under this Act on matters within his jurisdiction binds both the Government and the Inámdar and where a Collector infringes the rights of an Inámdar thus determined, an action lies against him in the Civil Court. *Vasudev v. the Collector of Puna*, 10, B. H. C. R., 471. In such an inquiry a Commissioner decided that a certain Inám village should be continued to the male descendants of the original grantee, *Held* that the decision only regulated the duration of the exemption of the village from assessment, and did not regulate the enjoyment of it as between the heirs of the original grantee. *Vasudev v. Ramkrishna*, I. L. R., 2 Bom., 529. The object of the Act is confined to providing a summary mode of disposing of claims to exemption from payment of revenue as against Government and any inquiry under it therefore cannot decide other questions, e.g. whether A is a *Kadam Naik* of a village as against the *Inámdar*, *Irapa v. Appa*, 1891, P. J., 345.]

IV.—In the adjudication of claims to exempt lands or interests therein, the titles of claimants shall be determined by the rules in schedule B annexed to this Act.

V.—Each Inám Commissioner and his assistants shall have the same authority to procure the attendance of witnesses, and to take evidence, as now is, or from time to time may be, by law vested in the ordinary civil Courts ; and so far as concerns the penalties for not giving evidence, for false testimony, for resistance of process, contempts, and other like matters, connected with cases under cognizance by any one of the said officers, his office shall be held to be a Court of civil jurisdiction of the same authority as the superior civil Court of the zilla or district in which his office from time to time shall be established.

Provided that all complaints against, or appeals from, the proceedings of the Inám Commissioner or any of his assistants, in exercise of the authority conferred on them respectively by this section, shall be made under the second rule of schedule A annexed to this Act, and shall not be cognizable by any other authority or in any other manner than as therein specified.

VI.—Bribery, extortion, and generally all acts of abuse or misapplication of authority, or other misconduct, committed by any

officer belonging to the establishment of the Inám Commission, or temporarily employed therein under the provisions of this enactment, shall be punishable as criminal offences with fine and ordinary imprisonment without labour for a period not exceeding five years, and the receipt of a present, directly or indirectly, by any such officer from any person against whom or in whose behalf he may be officially employed, shall be considered extortion. And no penalty or punishment adjudicated under this clause shall preclude any other civil prosecution to which the offender may be liable.

VII.—[Repealed by Act X of 1876.]

SCHEDULE A.

Rules for defining the Duties of each Inám Commissioner and his Assistants.

1. The duty of the Inám Commissioner and his assistants shall be to investigate, in the manner prescribed by this enactment, the titles of persons holding or claiming against Government the possession or enjoyment of ináms or jághírs, or any interest therein, or claiming exemption from the payment of land-revenue, and generally to act according to the instructions of Government in all matters not specifically provided for in this enactment.

2. All orders of the Assistant Commissioners shall be appealable to the Inám Commissioner, who shall also have the authority of revising and of modifying, reversing or annulling, if necessary, their orders and proceedings, and the orders and proceedings of the Inám Commissioner shall be in like manner appealable to, and subject to modification, reversal or annulment by the Governor of Bombay in Council, whose orders shall in every case be final.

[The Governor in Council upon whom judicial powers are conferred by the Act is a competent officer under s. 4 (k) of Act X of 1876. *Janardanrao v. The Secretary of State for India*, I. L. R., 13 Bom., 442.]

Although a review of the decision of Government cannot be asked for as a matter of right, Government are not precluded from reviewing its decision as against itself. *Janardan v. The Secretary of State*, 1892, P. J., 151.]

3. The Inám Commissioner or his assistants shall receive from the persons holding or claiming to hold lands or any interest therein exempt from the payment of revenue, statements explaining the nature of the title by which the lands or interests are so held, and shall take and record the evidence offered in support of such statements.

4. These statements may be received, either directly by the officers of the Inám Commission, or through the medium of the revenue authority of the taluka in which the land or interest so held or claimed as exempt is situated, or in which the alleged proprietor re-

sides, without any previous procedure, except a general invitation to such landholders of a district who shall hold or claim to hold lands exempt as aforesaid to state the nature of their titles.

5. But when such general invitation is not sufficiently attended to, a notice may be issued to any party holding or claiming to hold any lands or any interest therein wholly or partially exempt as aforesaid, requiring him personally, or by his agent, to shew his title.

The notice issued in such cases shall state the nature of the investigation which is intended, and shall call upon the alleged proprietor of the exempt lands or interest held or claimed to be held exempt as aforesaid, to attend either personally or by an authorized agent, at a specified place, and within a specified period (which shall never be less than two months from the date of the notice being served), to explain the nature of his title to hold such lands or interest exempt as aforesaid, and to produce all the evidence forthcoming to prove it. The notice shall further explain that a failure to comply with its terms will render the land, or interest to which it relates, liable to attachment.

6. The notice shall be served upon the party holding or claiming to hold the land or interest exempt as aforesaid, or, if his place of residence be not known, upon the person acting for him, or in default of such, upon the person in charge of the land or interest.

7. If such persons cannot be found, a notice shall be posted in the office of the Native revenue-officer of the district, and in the chaurí, or most public place of the village, where the land or interest under inquiry is situated, calling on any person who may claim as proprietor to appear, either personally or by his agent, to prove his title within six months from the date of the notice, under penalty of the attachment of the land or interest, and on failure of the appearance of a claimant, the land or interest shall be liable to attachment.

8. The attachment provided for by rules 5 and 7 shall be enforced by the Collector or chief revenue authority of the district in which the land to which it relates is situated, at the written requisition of the Inám Commissioner or his assistant, which shall be a sufficient warrant to the Collector for the attachment of the land, and for the collection of the rents accruing therefrom on account of Government during its attachment.

9. As soon as possible after the receipt of the statements in each district, and of the evidence by which they are supported, they shall be tested by the entries in the Government accounts and State-records, and by any other evidence procurable, whether in favour of Government or of the claimants, and decisions shall then be passed

on them as to the continuance, resumption or full or partial assessment of the lands.

10. In cases where the notices provided for in Sections 5 and 7 fail to procure the attendance of the persons to whom they are addressed, and no claimant appears to prosecute his claim, the Commissioner or Assistant Commissioner shall proceed to ascertain the facts of the case from such evidence as may be forthcoming or procurable, and shall pronounce such decision thereupon as to him shall seem just regarding the lands or interests to which the notices referred.

11. An attachment enforced under rule 8 shall be removed by the Collector or chief revenue authority by whom it was made, on receipt of a communication from the Inám Commissioner or his assistant, certifying that he considers the attachment to be no longer necessary; but the rents collected from the land during its attachment shall in no case be restored to the alleged proprietor, except under the general or special instructions of Government.

12. Certified copies of decisions, made according to the provisions of rule 9, shall be delivered as soon as possible after each decision is passed, to the persons on whose claims the decision shall have been pronounced, or their agents; and copies of all decisions made in the absence of any claimant, according to the provisions of rule 10, shall be sent to the mamlatdar, or other revenue-manager of the taluq in which the lands to which they relate are situated, who shall deliver them to the parties affected by them, should they be discoverable, or otherwise cause them to be publicly posted in the village to which the lands in question belong.

13. Decisions, affecting any lands or any interests therein, passed under this enactment, shall be carried into execution by the Collector or chief revenue authority of the district in which the lands to which they relate are situated, at the requisition of the Inám Commissioner or his assistant, in any manner which may, from time to time, be prescribed by the Governor of Bombay in Council.

14. In all cases where a person may be desirous of appealing against any decision of the Inám Commissioner or his assistants, he shall apply by a petition, addressed to the authority by whom, according to rule 2, his appeal is cognizable, which petition shall be presented to such authority within one hundred days from the date of the decree appealed against, a copy of which must accompany the petition of appeal, and no appeal which is not so made shall be admitted, without proof of the existence of a just and necessary cause for its not having been preferred in due time; and it is hereby provided, that no decree passed by the Inám Commissioner

or any of his assistants, shall be liable to be set aside for want of form in the proceedings, but only for matters affecting the justice of the decision.

SCHEDULE B.

Rules for the Adjudication of Titles to Estates claimed as Inám or exempt from payment of Land-revenue.

Regarding Ináms already declared permanent by competent authority since the introduction of the present Government.

1. All lands held under a specific and absolute declaration by the British Government, or any competent officer acting under it, that they were to be continued hereditarily or in perpetuity exempt, wholly or partially, from the payment of revenue, are to be so continued according to the purport of such declaration.

Provision 1st.—If any question shall arise as to the competency of the officer to make or give such declaration as aforesaid, the Commissioner or Assistant Commissioner is to suspend his judgment and report the circumstances of the case to the Governor of Bombay in Council, to whom a power is hereby reserved of determining finally whether such officer was competent to make or give such declaration, and the Commissioner or Assistant Commissioner, upon receiving the determination of the said Governor in Council, shall decide accordingly.

Regarding claims to personal Ináms not yet adjudicated under the present Government.

2. Any land held under a sunnud declaring it to be hereditary, shall be so continued according to the terms of the sunnud.

Provision 1st.—Provided that the grant was either made, or specifically recognized, by authority competent to alienate Government revenue in perpetuity, the question of which recognition and competency is to be referred to and determined by Government in the manner prescribed by provision 1st, rule 1.

Provision 2nd.—And provided that there be nothing in the conditions of the tenure which cannot be observed without a breach of the laws of the land, or the rules of public decency.

Provision 3rd.—And provided that the grant was not afterwards revoked or disallowed, or an alteration of its terms ordered or recognized by a competent authority.

3. All lands uninterruptedly held as wholly or partially exempt from assessment for a period of sixty years before the introduction of the British Government, and then in the authorized possession of a grandson in male descent, or male heir of the body of such grandson of the original grantee, shall continue to be so held so long as there shall be in existence any male heir of the body of the person who was incumbent at the introduction of the British Government, tracing his lineage from such incumbent through male heirs only.

4. All lands, uninterruptedly held as wholly or partially exempt from assessment, for a period of forty years before the introduction of the British Government, and then in the authorized possession of a son, or male heir of the body of a son, of the original grantee, are to be continued for one succession further than that of the person who was incumbent at the introduction of the British Government, that is, until the death of his last surviving son.

Provision 1st.—The authorized possession contemplated by rules 3 and 4 does not involve the necessity of proving any specific authority from, or recognition by, the Government or paramount Power. The mere entry of the holding, as continued in the genuine accounts of the district-officers (even in those not audited and passed by the Government of the time being), will be sufficient to bring it under the heads of “uninterrupted” and “authorized” so far as regards the purposes of this rule; provided only that there are no entries in the Collectorate accounts, which shew that the holding of such lands exempt as aforesaid must have been unauthorised by the Government or paramount Power.

Provision 2nd.—If there be not evidence forthcoming to disprove a claimant's assertion that his holding has been undisputedly enjoyed for the number of years and descents requisite to fulfil the conditions of rules 3 and 4 respectively, his prescriptive right shall be admitted.

Provision 3rd.—The introduction of the British Government is to be reckoned from the time the East India Company became the Government or paramount authority over each district as regards its ináms. In the territories ceded by or conquered from the Peshwa, therefore, whether khalsat mahals or saranjams, &c., held exclusive of ináms, &c., the introduction of the British Government will date from the close of that of the Peshwa. But in case of the lapse of an independent principality, or of a jagír more ancient than the Peshwa's government, and over the ináms of which he did not claim any authority, the introduction of the British Government should be reckoned only from the date at which the general management of the districts may have come into the hands of the Company, and in case any question shall arise as to the precise date when the East India Company became the Government over any district, or when the general management of any district came into their hands, such question shall be referred to and determined by Government in the manner prescribed by provision 1st, rule I.

[There is no rule numbered 5.]

6. Land held as wholly exempt from payment of revenue, or on partial assessment, the possession of which is not continuable

under the preceding rules, is to be resumed on the demise of the incumbent.

Provision 1st.—In case the incumbent at the time of the introduction of the British Government may have died, the permission to hold for life is to be extended to the person in whose name the land may be continued, when the investigation is commenced, if there be no fraud apparent, nor other reason for withholding this indulgence.

Provision 2nd.—When land is evidently held by fraud recently committed (as when an inám which was resumed under the late Government has been re-occupied under the present Government without authority, or as when a pretended inám is found to have originated since the introduction of this Government with the connivance of district or village-officers), it shall be at once resumed, not being continuable under this or any of the preceding rules.

[The only effect of a resumption under the Inám Commission established by this Act is the discontinuance of exemption from payment of public revenue, leaving the inámdar or sarañjmdar, who is in occupation of the land, to retain possession so long as he pays the assessment impossible on the land as khálsat land, according to the Revenue Survey Settlement or, in districts which have not been subject to the operations of a survey, according to the rates obtainable in the village in which the land is situated. *Ganpatrav v. Ganesh*, I. L. R. 10 Bom. 112 (116).]

Acts XI of 1852 and VII of 1863 (Bombay) are in *pari materia*, and the term "resumption of lands" (unless there be something in the context to show the contrary) must receive the same construction throughout. The effect of resumption under the Acts is to leave the right to the land in the possession of the inámdar untouched. The attachment by Government must therefore be limited to assessment. *Hari v. Shaik Ajmudin*, I. L. R. 11 Bom. 235.]

7. All lands held for the support of mosques, temples, or similar institutions, of the permanent character of which there can be no doubt are to be continued permanently, even though their permanent continuance may not have been expressly provided for when they were granted.

Provisions 1st, 2nd and 3rd.—The same as the corresponding provisions of rule 2 of this schedule in those cases in which title-deeds or other records proving the circumstances of the original grant, or its specific recognition by competent authority, are forthcoming.

Provision 4th.—When there is no proof forthcoming to shew whether or not an inám, coming under the provisions of this rule, was granted, or even specifically recognized, by a competent authority, still, if it has been undisputedly enjoyed for a period of forty years before the introduction of the present Government, it shall be permanently continued, and enjoyment proved by the mere entry of the inám, as continued in genuine accounts of the district-officers (even in those not passed by the Government of the time being), is to be considered sufficiently "uninterrupted" to give an inám the benefit of this provision, if there be no entries in the Government accounts which shew that it must have been unauthorized by them.

Regarding claims to ináms apparently permanent by the nature of the objects for which they are held, and not merely personal.

Provision 5th.—If the forthcoming records do not go far enough back to test the existence of enjoyment of the duration contemplated in provision 4th as establishing full prescriptive title in such ináms, still, if so far as they do go, they are not opposed to the claimant's assertion that sufficient enjoyment has taken place, the prescriptive title of the inám shall be admitted according to his assertions, unless there be other evidence forthcoming to disprove them.

Provision 6th.—The peculiar advantages of this rule shall not apply to the holdings of individuals in their own name for the performance of ceremonial worship, claims to which must be decided under the rules for personal claims.

Provision 7th.—When claims of the denomination coming under this rule are found to be unsupported by proof of original valid title, and are proved void of sufficient prescriptive enjoyment, they are to be adjudicated according to rule 6.

8. All lands authorizedly held by an official tenure which it is evident from local usage was meant to be hereditary, and has been so considered heretofore, even though there be no sunnuds declaring it to be so,—for instance, ináms which form the authorized emoluments of any hereditary office, as of kázis, village joshis, &c., and are not merely personal,—are to be continued permanently.

Provisions 1st, 2nd and 3rd.—The same as the corresponding provisions of rule 2 of this schedule in those cases in which title-deeds or other records, proving the circumstances of the original grant, or its specific recognition by competent authority, are forthcoming.

Provision 4th.—When there is no proof forthcoming to shew whether or not an inám coming under the provisions of this rule, was granted or even specifically recognized by competent authority, still, if it has been undisputedly enjoyed as an official, and not merely personal, holding from the earliest period to which the forthcoming evidence does relate, it shall be continued permanently as official emolument, unless the claimant's own statement renders this course improper.

Provision 5th.—The provisions of this rule are not in any way to apply to emoluments continued for service performed to the State as the service watans of desáis, sardesáis, nádgaudas, desh pándes, patels, kulkarnis, mhárs, talaváras, whose claims are to be disposed of according to the rules which are or may be established for the regulation of such holdings.

Provision 6th.—It is to be understood that mere length of enjoyment of land as inám by an official person is not of itself sufficient to entitle a claim to be brought under this rule.

Provision 7th.—If a holding claimed under this rule be found incapable of permanent continuance under it, the claimant shall be allowed the advantages of any of the preceding rules of this schedule which may be applicable to his case.

Regarding
Provision for
the widows of
the last in-
cumbents of
resumed
holdings.

9. On the resumption of any lands under the rules of this schedule a moiety or other portion may be continued to the widows of the last incumbents during their lives, in cases of proved poverty and destitution.

Provision 1st.—In the case of a holding which is recognizable, as an hereditary personal inám, the widow of a proprietor who dies without surviving male issue, or other heirs to whom his inám will of necessity descend, is by right his sole heir, and during her life, the inám cannot be regarded as having lapsed to Government : it should, therefore, in such a case, be continued undiminished during the widow's life.

Regarding the
exception of
certain ten-
ures from the
application of
these rules.

10. These rules shall not be necessarily applicable to jágirs saranjáms or other tenures for service to Government, or tenures of a political nature, the titles and continuance of which shall be determined as heretofore under such rules as Government may find it necessary to issue from time to time.

[Bombay Regulation VII of 1830, taken together with Bombay Reg. XXIX of 1827, had the effect of introducing Bom. Reg. XVII of 1827 and the other Regulations of that year into the Southern Mahratta Country, with certain exceptions which do not include section 38, cl. I of Bom. Reg. XVII of 1827. The "general rules" spoken of in that section are defined by Bom. Reg. VI of 1833, section 1, cl. 3, as "such rules as Government may think proper to issue from time to time"—which expression is repeated in Act XI of 1852, schedule B, Rule 10, which rule shows that Act XI of 1852 does not deprive the Government of its right to resume jágirs at pleasure, a right which existed as a part of the common law of India long before the Code of 1827. Review in R. A. 39 of 1872. 1877, P. J. 121.]

Regarding the
modification
and interpre-
tation of
these Rules.

11. Any of these rules may be relaxed in favour of claimants under instructions from the Governor of Bombay in Council, in whom shall also be vested the power of interpreting the precise meaning of any of the rules respecting which a question may arise.

ACT No. XI OF 1853.

*Passed by the Governor General of India in Council on the
15th July 1853.*

An Act to facilitate the removal of nuisances and encroachments below high-water mark in the Islands of Bombay and Kolaba.

[See Act XXII of 1855.]

WHEREAS there is a large sea-shore in the Islands of Bombay and Kolaba, and it is expedient, with a view to the safe navigation of the harbour of Bombay, and to the public interests generally, to facilitate

the removal of nuisances, obstructions and encroachments below high-water mark in the said harbour, or upon or about the shores of the said islands ; It is enacted as follows :—

I.—It shall be lawful for the Collector of land-revenue at Bombay to give notice requiring the removal of any nuisance, obstruction or encroachment anywhere below high-water mark in the said harbour of Bombay, or upon or about the shores of the said islands ; such notice shall be given by affixing the same in some conspicuous place on or near to the encroachment, obstruction or nuisance complained of, and by publication thereof in the *Bombay Government Gazette*, and shall state that unless the nuisance, obstruction or encroachment be removed or abated within one month, the same will be removed or abated by the said Collector ; such notice may be in the form No. 1, in the schedule to this Act annexed, or to the like effect.

II.—If any person shall deny the right of the said Collector to effect such abatement or removal, he shall, within one month after such notice shall have been given as aforesaid, apply to the Supreme Court of Judicature at Bombay, by petition, setting forth the grounds of his alleged right, and praying that the said Collector may be restrained from causing such abatement or removal, and the said Court may thereupon (on the petitioner's giving sufficient security for costs), fix a time for hearing and adjudicating upon such petition, and give such directions and make such orders as the said Court may think just, and the said Court may also make an order for restraining the alleged nuisance, obstruction or encroachment from being extended, or from being abated or removed by the said Collector, until after adjudication upon the said petition, or the dismissal thereof for want of prosecution.

III.—Upon the hearing of every such petition, the onus of proving the alleged right shall be on the petitioner.

IV.—No person shall be allowed, after the expiration of such period of one month, to present any such petition as aforesaid, unless on satisfactorily accounting to the said Court for the delay.

V.—If no such petition shall be presented within the said period of one month, or if the same be presented and determined against the right of the petitioner, or be dismissed for want of prosecution, it shall be lawful for the Collector to cause such abatement or removal as aforesaid, by any person or persons to be authorized by warrant under his hand, and such warrant may be in the form No. 2 in the schedule to this Act annexed, or to the like effect ; and the said Collector, and any person acting under his warrant, shall not be answerable for any damage unavoidably occasioned in the removal of any such nuisance, obstruction or encroachment.

VI.—The said Collector may sell the materials of any encroachment or obstruction removed under this Act, and may apply the proceeds of sale in or towards payment of the expenses of the removal, and if any surplus shall remain, the same shall be forfeited, and be paid and applied in such manner as the Governor of Bombay in Council shall direct.

VII.—Nothing in this Act shall prejudice or affect the rights of the Crown in any part of the said harbour, or of the seashore of the said islands, or preclude or interfere with any such proceedings, civil or criminal, for abating such nuisances and encroachments as aforesaid, as might have been had if this Act had not been passed.

[Printed as amended by Act XIV of 1870.]

VIII.—The words “high-water mark” in this Act shall mean the ordinary line of high-water at monsoon tides.

SCHEDULE.

FORM No. 1.

NOTICE is hereby given by the Collector of land-revenue in Bombay, under Act No. XI of 1853, that (*describe the encroachment*) is to be removed or abated within one month from the date hereof, otherwise the same will be removed or abated by the said Collector under the authority of the said Act.

Dated the _____ day of _____ in the year of our Lord _____

(*Signature of Collector.*)

FORM No. 2.

THIS warrant, granted by the Collector of land-revenue in Bombay, under Act No. XI of 1853, is to authorize _____ of _____ to remove (*describe encroachment.*)

(*Signature of Collector.*)

Dated _____

ACT No. VII OF 1856.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

Received the assent of the Governor General on the 14th March 1856.

An Act for the better control of the Gaols within the Presidency of Bombay.

[Printed as amended by Act XII of 1891.]

This Act is in force throughout the whole of the territories subject to the government of the Governor of Bombay in Council at the date of the passing of Act XV of 1874, except the Scheduled Districts subject to such government. See s. 5 of Act XV of 1874.]

WHEREAS it is expedient to make provision for the better ^{Preamble.} control of the gaols within the Presidency of Bombay ; It is enacted as follows :—

[Printed as amended by Act XII of 1891.]

I.—[Repealed by Act XIV of 1870.]

II.—The control of all gaols in the said Presidency shall be vested in the Governor in Council, and it shall be lawful for the said Governor in Council, with the previous sanction of the Governor-General of India in Council to the creation of the office, to appoint such person or persons as he shall think fit, to inspect and superintend the said gaols, subject to the orders of the said Governor in Council, and to vest in such person or persons such power and authority for the purposes aforesaid as to the said Governor in Council may seem proper.

Supervision of gaols vested in the Governor or in Council who may appoint a person or persons to inspect and superintend them.

[Printed as amended by Acts XII of 1876 and XII of 1891.]

Repealed by Act IX of 1891.

ACT No. XIII OF 1856.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

Received the assent of the Governor General on the 13th June, 1856.

An Act for regulating the Police of the towns of Calcutta, Madras and Bombay.

[See Act XXX of 1866, s. 1, and Bom. Act I of 1872, s. 10. Printed as amended by Act XVI of 1874. This Act is repealed as to Calcutta and Madras by Bengal Act IV of 1866 and Madras Act VIII of 1867, respectively.]

WHEREAS it is expedient to consolidate and amend the laws ^{Preamble.} relating to the Police of the towns of Calcutta, Madras and Bombay ; It is enacted as follows :—

[Printed as amended by Acts XVI of 1874 and IV of 1877.]

I.—[Repealed by Act XII of 1891.]

II.—The following words and expressions in this Act shall have ^{Interpreta-} the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction, (that is to say)—

the expression "Local Government" shall mean the person or ^{"Local Gov-} persons for the time being immediately administering the executive ^{ernment."} government of that portion of the territories under the Government of India in which the town is situated ;

the word "Magistrate" shall mean any Magistrate of Police ^{"Magistrate,"} acting for the place where the matter requiring the cognizance of a Magistrate arises ;

the word "town" shall include all places within the local limits ^{"Town."} of the jurisdiction of Her Majesty's Supreme Courts of Judicature at Calcutta, Madras and Bombay ;

- Property."** the word "property" shall include any chattel, money or valuable security ;
- Number.** words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number ;
- Gender.** words importing the masculine gender shall include females ;
- Person."** the word "person" shall include a corporation ;
- Month."** the word "month" shall mean calendar month ;
- Oath."** the word "oath" shall include any affirmation or declaration lawfully substituted for an oath ;
- Cattle."** the word "cattle" shall, besides horned cattle, include horses, asses, mules, sheep, goats and swine.

[Printed as amended by Acts XVI of 1874 and XII of 1891.]

Appointment and removal of Commissioner of Police. **III.**—The administration of the Police in each of the said towns shall be vested in an officer to be styled the Commissioner of Police for such town, who shall from time to time be appointed by the Local Government, and may be removed by the same authority, and who shall receive such salary as the Governor-General of India in Council shall allow.

All powers which by law are given to a Superintendent of Police in any such town shall be vested in the Commissioner of Police.

[Printed as amended by Acts XVI of 1874 and XII of 1891.]

Appointment of Deputies to the Commissioner of Police. **IV.**—The Local Government, with the sanction of the Governor-General in Council, may from time to time appoint one or more Deputies to the Commissioner of Police, who shall be competent to perform any of the duties assigned to that officer under his orders.

The Deputy Commissioners may be removed at any time by order of the Local Government.

[The Superintendents of Police of the Great Indian Peninsula and the Bombay, Baroda and Central India Railways have been appointed *ex-officio* Deputy Commissioners of Police in the City of Bombay. 1890 G. G. 653.]

Commissioner of Police shall not ordinarily be a Magistrate. **V.**—The Commissioner of Police shall not ordinarily be a Magistrate of Police under this Act, but, with the sanction of the Governor-General of India in Council, may be appointed to that office, when the Local Government, for special reasons, may deem it expedient.

Commissioner of Police to be a Justice of the Peace, but act only in certain cases. **VI.**—The Commissioner of Police shall be appointed a Justice of the Peace, but, unless he is vested with the jurisdiction of a Magistrate of Police, he shall act as a Justice only so far as may be necessary for the preservation of the peace, the prevention of crimes, and the detection, apprehension and detention of offenders in order to their being brought before a Magistrate of Police ; and so far as may be necessary for the performance of the duties assigned to the Commissioner by this Act.

The Deputies to the Commissioner of Police may be appointed Justices of the Peace, and if so appointed, shall act in that capacity, subject to the above restriction.

VII.—For each of the said towns there shall be a Police-force, which shall consist of such number of officers and men, and shall be otherwise constituted in such manner, as shall be, from time to time, ordered by the Local Government, with the sanction of the Governor-General of India in Council.

VIII.—The Police-force shall be under the exclusive direction and control of the Commissioner of Police, who may, from time to time, subject to the approbation of the Local Government, frame such orders and regulations as he shall deem expedient, relative to the general government of the force, the places of residence, the classification, rank, distribution and particular service of the several members thereof; their inspection; the description of arms, accoutrements and other necessities to be furnished to them; and all such other orders and regulations relative to the said Police-force as the said Commissioner shall, from time to time, deem expedient for preventing neglect or abuse, and for rendering such force efficient in the discharge of all its duties.

IX.—[Repealed by Act XVI of 1874.]

X.—The appointment of the members of the Police-force shall rest with the Commissioner of Police, and he may, at any time, suspend or dismiss any member of the force whom he shall think remiss or negligent in the discharge of his duty, or otherwise unfit for the same.

XI.—For any lesser breach of discipline, or other misconduct not requiring the suspension or dismissal of the offender, a member of the Police-force may be fined by the Commissioner in any sum not exceeding one-half of his monthly pay.

XII.—For neglect or violation of duty in his office, and for any breach of the orders and regulations framed as aforesaid, every member of the Police, besides being suspended or dismissed from his employment at the discretion of the Commissioner, shall be liable, on conviction before a Magistrate, to a fine not exceeding one hundred rupees (which may be deducted from any salary then due to such offender), or to imprisonment, with or without hard labour, for any time not exceeding three months.

XIII.—[Repealed by Act XLVIII of 1860.]

XIV.—Every member of the Police-force shall receive on his enrolment a certificate (A), under the signature of the Commissioner of Police, by virtue of which he shall be vested with the powers, functions, and privileges of a constable. Such certificate shall

Constitution of Police-force.

The Police-force to be under the control of the Commissioner. Rules for the government of the force to be made by the Commissioner and approved by Government.

Appointment &c., of the Police-force to rest with the Commissioner.

Power of Commissioner to fine members of the Police-force.

Additional penalties for members of the Police-force for neglect of duty, &c.

Members of Police-force to receive certificates vesting them with powers of a constable.

cease to have effect whenever the person named in it is suspended, or dismissed, or otherwise removed from employment in the force.

XV.—[Repealed by Act XLVIII of 1860.]

Penalty for dismissed members of Police-force not delivering up clothing, accoutrements, &c.

XVI.—Every member of the Police-force, who shall be dismissed from, or shall cease to hold and exercise, his office, and who shall not forthwith deliver up his certificate, and all the clothing, accoutrements and appointments, and other necessities which may have been supplied to him for the execution of his duty, to the Commissioner, or to such person, and at such time and place as shall be directed by the said Commissioner, shall be liable, on conviction before a Magistrate, to imprisonment, with or without hard labour, for any time not exceeding one month.

And it shall be lawful for the Commissioner, or for any Magistrate, to issue his warrant to search for and seize all the clothing, accoutrements, appointments and other necessities which shall not be so delivered over, wherever the same may be found. •

Police Superannuation Fund.

XVII.—There shall be deducted from the salary and authorized allowances of every member of the Bombay City Police-force of a class not entitled to the benefit of the uncovenanted service pension-rules, a sum according to such rate as the Local Government shall direct, not being a greater rate than one anna in the rupee, which sum so deducted, and also the money accruing from stoppages from members of the said Police-force during absence from sickness or other cause, and fines imposed on members thereof for misconduct, and from fines imposed by Magistrates upon drunken persons, or for assaults upon Police-officers, and all moneys arising from the sale of worn or cast-off clothing or other articles supplied for the use of the Police, shall from time to time be invested in such manner and in such securities as the Local Government may, in writing, direct, and the interest and dividends thereof, or so much of the same as shall not be required for the purposes hereinafter mentioned, shall be likewise invested as aforesaid, and accumulate, so as to form a fund to be called "The Bombay City Police Superannuation Fund," and shall be applied from time to time to payment of such superannuation or retiring allowances or gratuities as may be ordered by the Local Government, at any time to any of the aforesaid members of the Police-force, as hereinafter provided."

[Printed as amended by Bombay Acts I of 1872 and II of 1879.]

Superannuation pensions to members of the Police-force.

XVIII.—It shall be lawful for the Local Government to sanction that any member of the said class of the Police-force aforesaid may be superannuated and receive thereupon out of the said Superannuation Fund a monthly pension, subject to the following conditions ; that is to say—

First.—If the period during which the individual shall have actually served in the said Police-force, after attaining the age of twenty-two years, be more than fifteen years, but less than twenty years, he may on production of a certificate under the hand of the Police Surgeon, that he is physically unfit for further efficient service in the Police, and that such unfitness is not the result of intemperance, be granted a pension the amount of which shall not exceed one-third of his monthly salary or authorized official allowances, calculated on an average of the five years next preceding the date of his application for pension.

Second.—If the period of his actual service in the said Force, after attaining the age of twenty-two years, be over twenty years and under twenty-five years, the applicant may, on production of such a certificate as aforesaid, be granted a pension not exceeding in amount one-half of his salary or authorized allowances, calculated in the manner above stated.

Third.—If the period of his actual service in the said Force, after attaining the age of twenty-two years, be upwards of twenty-five years, the applicant may be granted a pension not exceeding one-half of his salary or authorized allowances, calculated as above stated, without the production of such medical certificate.

[Printed as substituted by Bombay Act I of 1872.]

XIX.—If any member of the said Police-force shall at any time become disqualified for further Police-service by any wound or injury received in such service, he may be granted from the said fund a pension of such amount not exceeding one-half of his average pay and allowances during the five previous years of his service, or such gratuity as the Local Government may think fit.

Allowances to Police officers disabled by injury &c., in execution of duty.

[Printed as substituted by Bombay Act I of 1872.]

XX.—The Commissioner of Police may, of his own authority, appoint special constables to assist the Police-force on any temporary emergency.

Commissioner of Police may appoint special constables when necessary.

XXI.—The Commissioner of Police may also, if he shall think fit, on the application of any person showing the necessity of it, appoint any additional number of constables to keep the peace at any place within his jurisdiction, at the charge of the person applying, but subject to the orders of the said Commissioner, and for such time as he shall think fit; and every such constable shall receive a certificate, by virtue of which he shall be vested with all the powers, privileges and duties of the constables belonging to the Police-force;

Appointment of additional constables on the application of private individuals.

Provided that the person upon whose application such appointment shall have been made may, upon giving one month's notice in writing to the Commissioner of Police require that the constables so

appointed at his expense shall be discontinued, and thereupon the said Commissioner shall discontinue such additional constables; and all monies received by the Commissioner for the payment of any such additional constables shall be accounted for by him.

XXII, XXIII.—[Repealed by Act IV of 1877.]

Service of
criminal pro-
cess by Police-
officer.

XXIV.—All summonses, subpoenas and warrants issued in any criminal proceeding by a Commissioner or Deputy Commissioner of Police, shall be served and executed within the said towns by an officer of the Police-force, and by none other.

[Printed as amended by Acts XVI of 1874 and IV of 1877.]

Execution of
warrants.

XXV.—When any warrant shall be directed or delivered to any such officer, unless the authority issuing it shall order that it be executed without delay, such Police-officer shall deliver the same to the superior officer in charge of the division to which he belongs, who shall appoint, by endorsement thereon, one or more Police-officers to execute the same, and every Police-officer whose name shall be so endorsed thereon shall have the same powers, privileges and protection as if the same had been originally directed to him by name.

XXVI-XXXI.—[Repealed by Act IV of 1877.]

XXXII-XXXIV.—[Repealed by Act XLVIII of 1860.]

Fraudulent
possession of
stolen prop-
erty.

XXXV.—Clause 1.—Whoever has in his possession, or conveys in any manner, any thing which may be reasonably suspected of being stolen or fraudulently obtained, shall, if he fail to account satisfactorily how he came by the same, be liable to a penalty not exceeding one hundred rupees, or to imprisonment, with or without hard labour, for any term not exceeding three months.

Power to sum-
mon persons
declared to
have had
possession
of such prop-
erty within
the jurisdic-
tion of the
Magistrate.

Clause 2.—If any person, charged with having or conveying any thing stolen or fraudulently obtained, shall declare that he received the same from some other person, or that he was employed as a carrier, agent or servant, to convey the same for some other person, the Magistrate may cause every such other person, and also, if necessary, every former or pretended purchaser or other person through whose possession the same shall have passed (provided that such other person shall be alleged to have had possession of the same within the jurisdiction of such Magistrate), to be brought before him and examined, and shall examine witnesses touching the same;

Penalty if
such posses-
sion fraudu-
lent.

and if it appear to such Magistrate that any person so brought before him had possession of such thing, and had reasonable cause to believe the same to have been stolen or unlawfully obtained, such person shall be liable to a penalty not exceeding one hundred rupees, or to imprisonment, with or without hard labour, for any term not exceeding three months.

[Printed as amended by Act IV of 1877.]

XXXVI, XXXVII.—[Repealed by Act IV of 1877.]

XXXVIII-XL.—[Repealed by Act XLVIII of 1860.]

XLI, XLII.—[Repealed by Act IV of 1877.]

XLIII.—[Repealed by Act XLVIII of 1860.]

XLIV, XLV.—[Repealed by Act IV of 1877.]

XLVI.—Any person found between sunset and sunrise, armed with any dangerous or offensive instrument whatsoever, with intent to commit any felonious act; Apprehension and punishment of reputed thieves, &c.

any reputed thief found between sunset and sunrise, on board any vessel or boat, or lying or loitering in any bazar, street, road, yard, thoroughfare, or other place, who shall not give a satisfactory account of himself;

any person found between sunset and sunrise, having his face covered, or otherwise disguised, with intent to commit any felony;

any person found between sunset and sunrise, in any dwelling-house or other building whatsoever, without being able satisfactorily to account for his presence therein; and

any person having in his possession, without lawful excuse (the proof of which excuse shall be on such person), any implement of house-breaking—

may be taken into custody by any Police-officer without a warrant, and shall be liable to imprisonment, with or without hard labour, for a term not exceeding three months.

XLVII.—Whoever, not being a soldier or sailor in the Army or Navy of the Queen, or a Police-officer, goes armed with any sword, spear, gun or other offensive weapon, in any street, thoroughfare or public place, unless by leave of the Commissioner of Police, shall be liable to be disarmed by any Police-officer; Penalty for carrying arms without authority.

and the weapon so seized shall be forfeited to the Government, unless redeemed by payment of a fine, at the discretion of the Commissioner, not exceeding ten rupees.

[Printed as amended by Act XVI of 1874.]

XLVIII.—Whoever, not being amenable to the articles of war, takes, or attempts to take, into Fort William at Calcutta, or Fort St. George, or into the barracks or buildings occupied by the troops composing the garrison of Bombay, or into any military barracks, guardrooms, or encampments, within any of the said towns, or on board or alongside of any vessel of war belonging to Her Majesty in the ports of the said towns, any spirits or spirituous or fermented liquors, or intoxicating drugs or preparations, without the license in writing of the commanding officer (unless such articles belong to some person above the rank of non-commissioned officer), shall be liable to a fine not exceeding one hundred rupees, or imprisonment for any term not exceeding two months, with or without hard labour; and such liquors, Penalty for taking spirit into Barracks or on board vessels of war.

drugs or preparations, and the vessels containing the same, shall be forfeited.

[Printed as amended by Act XVI of 1874.]

Penalty for
taking spirits,
&c., into jail.

XLIX.—Whoever takes, or attempts to take, without due permission, or throws, or attempts to throw, into any jail or house of correction, or into any public hospital, any spirits or spirituous or fermented liquors, or intoxicating drugs or preparations, shall be liable to a fine not exceeding fifty rupees, or to imprisonment, with or without hard labour, for any term not exceeding two months.

L-LII.—[Repealed by Act XLVIII of 1860.]

Disorderly
conduct in
houses of
public enter-
tainment.

LIII.—Whoever, being the keeper of any such house or place of public resort and entertainment in the said towns, knowingly permits drunkenness or other disorderly behaviour in such house or place, or knowingly suffers any gaming whatsoever therein, or who knowingly permits prostitutes, or persons of notoriously bad character, to meet or remain therein, or who wilfully harbours or conceals any soldier, seaman or apprentice, knowing, or having reason to believe, such soldier, seaman or apprentice, to be a deserter, shall be liable to a fine not exceeding one hundred rupees, and shall also be liable to forfeit his license.

[Printed as amended by Act XVI of 1874.]

Penalty for
harbouring
and concealing
deserters from
merchant-
vessels.

LIV.—Whoever, in any place within any of the said towns, wilfully harbours or conceals any seaman or apprentice belonging to a merchant-vessel, knowing, or having reason to believe, such seaman or apprentice to be a deserter, shall be liable to a fine not exceeding one hundred rupees.

[Printed as amended by Act XVI of 1874.]

LV.—[Repealed by Act XLVIII of 1860.]

LVI-LVIII.—[Repealed by Bom. Act IV of 1887.]

LIX.—[Repealed by Act XLVIII of 1860.]

LX-LXIII.—[Repealed by Bom. Act IV of 1887.]

Penalty for
cheating at
games.

LXIV.—Whoever, by any fraud or unlawful device, or ill-practice in playing at or with cards, dice or other game, or in bearing a part in the stakes, wagers or adventures, or in betting on the sides or hands of them that do play, or in wagering on the event of any game, sport, pastime, or exercise, wins from any other person, for himself or any other or others, any sum of money or valuable thing, shall be deemed guilty of obtaining such money or valuable thing from such other person by a false pretence, with intent to cheat or defraud such person of the same, and, being convicted thereof, shall be liable to punishment accordingly.

LXV-LXVI.—[Repealed by Bom. Act IV of 1887.]

LXVII.—[Repealed by Act XLVIII of 1860.]

LXVIII.—If any property regarding which written or printed information shall be given by any Police-officer to any pawn-broker or dealer in second-hand property or money-changer as having been stolen, embezzled, or fraudulently obtained, shall then be or thereafter come into the possession of or be offered in pawn or for sale or change to such pawn-broker, dealer, or money-changer, he shall, without unnecessary delay, give information to the Commissioner of Police or at the Police-office, that certain property answering the description of the said property was offered to him, or is in his possession, and shall also state the name and address given by the party by whom the same was offered, or from whom the same was received, under a penalty not exceeding fifty rupees for each and every such neglect or offence ; provided always, that, in the case of wearing apparel or other articles which it may be difficult for such pawn-broker or dealer to trace out and identify, no fine shall be exigible in respect of not reporting such articles, unless it shall appear to the Magistrate that such articles had been knowingly concealed by such pawn-broker or dealer.

Pawn-brokers and money-changers to report stolen property under penalty for neglect.

LXIX.—If any pawn-broker or dealer in second-hand goods or worker in gold or silver, after receiving information of the theft or the embezzling or the fraudulent disposal of any metals, goods or articles of whatsoever description, melts, alters, defaces, or puts away the same, or causes the same to be melted, altered, defaced or put away, without having previously received the permission of the Commissioner of Police, and it shall be found that such metals, goods or articles were stolen, embezzled or fraudulently disposed of by the person from whom such pawn-broker, dealer or worker received the same or by any other person, then and in such case it shall be held that such pawn-broker, dealer or worker knew that such metals, goods or articles were stolen, embezzled or fraudulently disposed of, and such pawn-broker, dealer or worker shall be proceeded against according to law as a receiver of stolen goods, or as being a party to the fraud, and punished accordingly ; and no other evidence of his guilt shall be necessary than evidence of such melting, altering, defacing, or putting away, after receiving information as aforesaid.

If stolen articles be altered or defaced by broker, after information of the theft, he shall be deemed a receiver of stolen goods.

LXX.—Whoever manufactures gunpowder or, without a license from the Commissioner of Police, has in his possession, in any house, shop, warehouse, or other building, at any one time, a greater quantity of gunpowder than ten pounds, shall be liable to a fine not exceeding five hundred rupees, and also to forfeit such gunpowder so manufactured or possessed, together with the vessel or receptacle in which it may be contained.

Manufacture or possession of gunpowder.

LXXI.—The Commissioner of Police may grant to any person a license for the sale or keeping in deposit of any quantity of

Licenses by Commissioner of Police for

sale and deposit of gunpowder, &c.

gunpowder not exceeding fifty pounds, on such conditions, and for such term, not exceeding one year, as shall be specified in the license ; and any person who shall be guilty of a breach of any of such conditions, shall, on conviction before a Magistrate, be liable to a fine not exceeding two hundred rupees, and to forfeit all gunpowder so kept in deposit contrary thereto, and the vessels containing it, and also, in the discretion of the Magistrate, or of the Commissioner, to forfeit his license.

Licenses for conveying and removing gunpowder.

LXXII.—The Commissioner of Police may grant to any person a license for the transit and carrying of gunpowder from one place to another, in such manner and in such quantity as he may deem advisable ; and any person, not being duly licensed in that behalf, who carries or conveys a greater quantity of gunpowder than one pound from one place to another, shall be liable to a fine not exceeding fifty rupees.

[Printed as amended by Act XVI of 1874.]

Commissioner of Police may issue warrant to search for gunpowder, &c.

LXXIII.—The Commissioner of Police, on credible information laid before him on oath, may issue his warrant authorizing a Police-officer to search in the day-time any house, shop, magazine, or other building or place in which he has reasonable ground to suspect that any gunpowder is manufactured, sold or kept, or any boat, carriage, cart, or other vehicle in which any gunpowder may be suspected to be carried, or any person suspected of carrying the same contrary to the provisions of this Act ; and all gunpowder found on such search shall, together with the vessels or receptacles in which it may be stored, be immediately seized and kept, pending the judgment of a Magistrate.

Act not to apply to Government powder, &c.

LXXIV.—None of the four last preceding sections shall extend to any Government magazine, or store, or building for the making or deposit of gunpowder under the authority or for the use of the Government, or to any gunpowder belonging to Her Majesty.

[Printed as amended by Act XVI of 1874.]

LXXV, LXXVI.—[Repealed by Act XLVIII of 1860.]

The Regulation of public processions, &c., and of carriages and persons at places of public resort.

LXXVII.—The Commissioner of Police from time to time, as occasion may require, may, subject to the orders of the Local Government, make rules

for the conduct of all assemblies and processions in the public roads, streets, or thoroughfares, prescribing the routes by which, and the times at which, such processions may pass ; and

for keeping order in the public roads, streets, thoroughfares, gháts, and landing places, and all other places of public resort, and preventing obstructions thereof on the occasion of such assemblies and processions ; and in the neighbourhood of places of worship during the time of public worship ; and in any case when the roads,

streets, or thoroughfares, gháts or landing-places, may be thronged, or may be liable to be obstructed ;

and may give licenses for the use of music in the streets on the occasion of Native festivals and ceremonies ;

Licenses for use of music in streets.

and every person opposing or not obeying the orders so issued by the Commissioner of Police, or violating the conditions of such license, shall be liable to a fine not exceeding one hundred rupees.

[The following rules are framed by the Commissioner of Police and sanctioned by H. E. the Governor in Council :—(1) The drivers of all conveyances and all persons shall obey the directions of the Police who are stationed at such places for the preservation of order and preventing obstruction. (2) No procession shall pass along any public road, street or thoroughfare except during such hours and along such routes as the Commissioner of Police shall in writing prescribe. (3) Processions passing along any public road, street or thoroughfare shall not occupy more than one-half of the width of the road, street or thoroughfare, and shall keep to the left or near side, unless expressly directed to the contrary. (4) When any specified area or place is, by public notice issued by the Commissioner of Police, reserved for military or other purposes, no person shall go or be upon such area or place without the permission of the military or other authorities for whom such area or place is advertised as reserved. 1890 G. G. 1312.]

LXXVIII.—[Repealed by Act XLVIII of 1860.]

LXXIX.—The Commissioner may refuse to register any boat or may cancel the registration thereof whenever it may appear to him to be in an unsafe state.

Commissioner may refuse to register unsafe boats or, if registered, may cancel the registry. Penalty for neglecting or delaying to report accident to a registered boat attended with loss of life.

LXXX.—Whenever any accident shall occur to a registered boat, attended with loss of the life of any one of the crew or passengers, the mánjee, or if the mánjee be not forthcoming, the owner of the boat shall report the circumstances at the Police-office ; and if the mánjee, or the owner, as the case may be, without lawful excuse, neglect or delay to make such report, he shall be liable to a fine not exceeding fifty rupees.

LXXXI, LXXXII.—[Repealed by Act XLVIII of 1860.]

LXXXIII, LXXXIV.—[Repealed by Act IV of 1877.]

LXXXV.—Whoever, in any public road, street, thoroughfare or place, begs or applies for alms, or exposes or exhibits any sores, wounds, bodily ailment or deformity, with the object of exciting charity, or of obtaining alms ; or whoever seeks for, or obtains alms, by means of any false statement or pretences, shall be liable to imprisonment, with or without hard labour, for any term not exceeding one month.

Beggars.

LXXXVI.—Any Police-officer may arrest, without a warrant, any person committing, in his view, any offence against this Act.

Police-officer may arrest without warrant on view of offence.

LXXXVII.—[Repealed by Act IV of 1877.]

LXXXVIII.—Whoever commits an offence on or with respect to the person or property of another, or, in committing an offence under

Apprehension of offenders by private individuals.

this Act, injures or damages the person or property of another, may, if his name and address be unknown, be apprehended by the person injured or by any person who may be using the property to which the injury may be done, or by the servant of either of such persons, or by any person authorized by or acting in aid of him, and may be detained until he give his name and address and satisfy such person that the name and address so given are correct, or until he can be delivered into the custody of a Police-officer.

Penalty for assaulting or forcibly resisting a person who apprehends under the preceding section.

LXXXIX.—If any person lawfully apprehended under the last preceding section shall assault or forcibly resist the person by whom he shall be so apprehended, or any person acting in his aid, he shall be liable to a fine not exceeding two hundred rupees.

Persons taken into custody by a Police-officer without warrant may be detained in station-house until brought before a Magistrate or bailed.

XC.—Every person taken into custody without a warrant by a Police-officer, shall be taken to the station-house, in order that such person may be detained until he can be brought before a Magistrate, or until he shall enter into recognizances, with or without sureties, for his appearance before a Magistrate.

Power to take recognizances at the station-house upon certain charges.

XCI.—Whenever any person is brought to a station-house charged with any offence against this Act, other than a felony; or whenever a person charged with a felony is in the custody of any Police-officer without a warrant—it shall be lawful for the officer in charge of such station-house, or any superior officer of Police, if he shall deem it prudent, and, in the case of felony, if he shall deem it probable that the person is falsely accused, to enlarge such person on his own recognizance, with or without sureties, conditioned as hereinafter mentioned.

Condition of recognizance.

XCII.—Every recognizance so taken shall be without fee or reward, and shall be conditioned for the appearance of the person thereby bound before a Magistrate at his next sitting, and the time and place of appearance, and the sum thereby acknowledged (not exceeding one thousand rupees), shall be specified in the said recognizance, or in the condition thereof; and the officer taking the recognizance shall enter into a book, to be kept for the purpose, the name, residence, and occupation of the party, and his surety or sureties (if any), entering into such recognizance, together with the condition thereof, and the sum thereby acknowledged, and shall return every such recognizance to the Magistrate present at the time and place when and where the party is bound to appear.

On suspicion of goods being stolen

XCIII.—If information shall be given on oath to the Commissioner of Police, that there is reasonable cause for suspecting that

anything stolen or unlawfully obtained is concealed or lodged in any dwelling-house, building, or other place, or any ship or vessel, the Commissioner, by special warrant under his hand directed to any Police-officer, may cause such dwelling-house, building or other place, or ship or vessel, to be entered and searched at any time of the day, or by night, if power for that purpose be given by such warrant ;

or unlawfully obtained, Commissioner of Police or Magistrate may grant search-warrant.

and the said Commissioner, if it shall appear to him necessary, may empower such Police-officer, with such assistance as may be found necessary (such officer having previously made known his authority), to use force for the effecting of such entry, whether by breaking open doors or otherwise ; and if, upon search thereupon made, such thing shall be found, then to convey the same before a Magistrate, or to guard the same on the spot until the offenders are taken before a Magistrate, or otherwise dispose thereof in some place of safety ; and moreover to take into custody, and carry before the said Magistrate, every person found in such house or place, or ship or vessel, who shall appear to have been privy to the deposit of any such thing, knowing or having reasonable cause to suspect the same to have been stolen, or otherwise unlawfully obtained.

[Printed as amended by Act IV of 1877.]

XCIV.—If information shall be given to any officer of Police not below the rank of inspector that there is reasonable cause for suspecting that any stolen property is concealed or lodged in any dwelling-house or other place, and he shall have good grounds for believing that, by reason of the delay in obtaining a search-warrant, the property is likely to be removed, the said officer, in virtue of his office, may search for specific articles alleged to have been stolen in the houses and places specified ;

Power to search houses for stolen property without a warrant in certain cases.

provided always, that a list of the articles stolen or missing be delivered or taken down in writing, with a declaration stating that the robbery has been committed, and that the informant has good ground to believe that the property is deposited in such house or place ; and provided, further, that the person who lost the goods, or his representative, accompany the officer in the search.

XCIV-XCVIII.—[Repealed by Act IV of 1877.]

XCIX.—[Repealed by Act XLVIII of 1860.]

C-CIV.—[Repealed by Act IV of 1877.]

CV.—[Repealed by Act XLVIII of 1860.]

CVI.—[Repealed by Act IV of 1877.]

CVII.—If any person, upon entering into such recognizance as is by this Act authorized to be taken, do not afterwards appear pursuant to such recognizance, the Magistrate before whom he ought to have appeared shall certify the fact of such non-appearance on the back of the recognizance, and thereupon the sum thereby acknow-

If Magistrate certifies the non-appearance of a person pursuant to this recognizance, the

sum acknowledged may be recovered as a fine.

ledged shall be recoverable in the manner provided by this Act for levying fines.

CVIII-CXI.—[Repealed by Act IV of 1877.]

CXII.—[Repealed by Act XLVIII of 1860.]

Moveable property of persons dying intestate under two hundred rupees in value may be taken charge of by Police, and delivered to party claiming to be entitled thereto.

CXIII.—Whenever any person dies intestate within any of the said towns leaving moveable property therein under two hundred rupees in value, which property is, in the absence of any person entitled thereto, taken charge of by the Police for the purpose of safe custody, it shall be lawful for the Commissioner of Police to order the said property to be delivered, without letters of administration taken out, to any person claiming to be entitled to the whole or any part thereof; provided he shall be satisfied of the title of the claimant, and of the value of the property, by the oath or affirmation of the claimant, or by such other evidence as he may require.

[Printed as amended by Act XVI of 1874.]

Commissioner of Police may take security for due administration and distribution of such property.

CXIV.—The Commissioner of Police may, at his discretion, before making any order under the preceding section, take such security as he may think proper for the due administration and distribution of such property.

Saving of right of other person claiming.

And nothing hereinbefore contained shall affect the right of any person to recover the whole or any part of the same from the person to whom it may have been delivered pursuant to such order.

CXV.—[Repealed by Act XLVIII of 1860.]

Stray dogs to be killed at certain appointed periods.

CXVI.—It shall be lawful for the Commissioner of Police, by order in writing to be affixed at the principal Police stations, and also to be published in some public newspaper, to appoint from time to time certain periods within which any dogs found straying in the street or beyond the enclosures of the houses of the owners of such dogs may be destroyed.

CXVII.—[Repealed by Act XII of 1875.]

CXVIII.—[Repealed by Act XVI of 1874.]

Schedule.—[Repealed by Act XIV of 1870.]

SCHEDULE OF FORMS.

FORM A.

A. B. has been appointed a Superintendent, inspector, jamadár, dárogha or peon (*as the case may be*) in the () Police-force, and is vested with the powers, functions and privileges of a constable.

FORM B.—[Repealed by Act XII of 1891.]

ACT No. IV OF 1857.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

*Received the assent of the Governor General on the 9th February, 1857.**An Act to amend the law relating to the duties payable on tobacco and the retail-sale and warehousing thereof in the town of Bombay.*

WHEREAS it is expedient to amend the law relating to the duties payable on tobacco and the retail-sale and warehousing of that article in the town of Bombay ; It is hereby enacted as follows :—

I.—[Repealed by Act XIV of 1870.]

II.—All tobacco (except such small quantities as are hereinafter mentioned) imported from any place into the town of Bombay and intended for consumption therein shall be liable to a duty of seven rupees and eight annas per maund of forty seers of eighty tolas to the seer, which duty is hereinafter called the municipal duty.

[Printed as amended by Act XII of 1891.]

III.—The said municipal duty may be paid, at the option of the importer, either on the importation of the tobacco, or after it has been warehoused as hereinafter provided.

IV.—If the said municipal duty is not paid on importation, the tobacco shall be warehoused in a public or licensed warehouse ; and the importer shall pay such duty on the said tobacco on its removal from the warehouse for consumption in the said town.

When tobacco so warehoused is re-exported to any place beyond the limits of the said town, the whole of the said municipal duty shall be remitted.

[Printed as amended by Act XVI of 1874.]

V.—The port of Bombay shall be held to be a warehousing port, so far as regards the warehousing of tobacco.

[Printed as amended by Acts XIV of 1870, XII of 1876, and XII of 1891.]

VI.—The Commissioner of Customs, Salt and Opium and officers of customs, shall have all the same powers and authorities for collecting and enforcing payment of the said municipal duty, in addition to the powers and authorities specified in this Act, as they now have or shall have in respect of duties of customs.

VII.—It shall not be lawful, without the permission of the Commissioner of Customs, Salt and Opium, or other officer empowered by Government to grant such permission, to bring any tobacco or any preparation thereof into Bombay otherwise than by sea, nor to land the same at any other landing-places than such as may from time to time be prescribed by the Government of Bombay.

[The Governor in Council is pleased to confer upon the Collector of Customs, Bombay, and upon each of the Assistant Collectors of Customs, Bombay, the powers specified in sections 7, 11, 14, 15, 16, 17 & 19 of Act IV of 1857. (1855 G. G. 95).]

Exemption
from duty.

VIII.—The foregoing provisions of this Act shall not be applicable to such small quantities of tobacco (not exceeding in weight four seers of eighty tolas to the seer) as are intended for the private consumption of the importer.

Permit neces-
sary for re-
moval of to-
bacco.

IX.—It shall not be lawful to remove any tobacco from one place to another within the said town, nor to carry or convey the same on any thoroughfare in the said town, nor to carry the same in any vessel or boat of less than forty khandis burthen in any of the creeks or waters adjacent to the said town, without a permit from the Commissioner of Customs, Salt and Opium, which permit shall be in the form of schedule A to this Act annexed, or to the like effect ; any such permit shall be in force only between sunrise and sunset of the day for which it is granted :

Proviso.

Provided always, that it shall be lawful to convey without a permit any tobacco so far as may be necessary for the lawful importation thereof according to the provisions of this Act, and also small quantities of tobacco, not exceeding in weight four seers of eighty tolas to the seer, for personal or domestic use.

No permit for
removal from
warehouse of
less than a bale.

X.—No permit shall be granted for the removal from warehouse of any quantity of tobacco less than an entire bale or package :

Proviso.

Provided that when tobacco is to be removed for consumption in the said town, the Commissioner of Customs, Salt and Opium, may give permission to open any bale or package previous to removal, and to set aside such portion thereof as may be refuse or waste ; and the said refuse or waste may be re-exported, under the rules for the re-export of tobacco, at any time within one month from the date of such permission, or, if it be not so re-exported, may be destroyed by order of the Commissioner.

License for
retail-sale of
tobacco.

XI.—It shall not be lawful for any person to sell or offer for sale by retail any tobacco in the said town without a license from the Commissioner of Customs, Salt and Opium, or other officer duly empowered by Government in that behalf, which license shall be in force for a period of twelve calendar months from the date thereof, unless the person to whom the license is granted shall be deprived thereof under the provisions of this Act.

A fee of one rupee shall be paid for every such license.

[See note to s. 7.]

What to be
deemed a re-
tail-sale.

XII.—Any sale of tobacco not exceeding in weight fourteen seers of eighty tolas to the seer shall be deemed to be a retail-sale within the meaning of this Act.

XIII.—It shall not be lawful for any licensed retail-dealer in tobacco to carry on the retail-sale of the same, or to keep any store of the same, except at such shop or other premises as may be specified in his license; and the name of every retail-dealer in tobacco, together with the number of his license, shall be written or painted in English, Guzráthí and Maráthí, in plain and legible characters of not less than one inch in height, on a board to be affixed in a conspicuous manner in the front of the shop or premises where such retail-sale is carried on.

Retail-sale to be only at the place mentioned in the license.

Name of licensed dealer to be affixed to shop.

XIV.—Every retail-dealer in tobacco shall, on or before the tenth day of each month, make to the Commissioner of Customs, Salt and Opium, or other officer as aforesaid, a separate return for each shop or place of sale for which he holds a license, showing the quantity of tobacco on hand therein at the beginning of the preceding month, the quantity received during such month, and the persons from whom, and the dates on which, he received it, and the stock remaining at the close of such month;

Monthly returns of stock to be made by retail-dealers.

and any retail-dealer who refuses or neglects to make such return or makes a false return, shall be liable to be deprived of his license by the said Commissioner or other officer as aforesaid, and to pay a fine not exceeding two hundred rupees.

[See note to s. 7 above.]

XV.—Every retail-dealer in tobacco shall, on the same day on which he shall receive any tobacco into any such shop or place of sale, enter in a book to be kept for that purpose, the weight of such tobacco, the day on which he receives the same, and the name of the person from whom, and the place from which, he receives it;

Retail-dealer to make entry in a book, of weight, &c., of all tobacco received.

and such book shall be open to the inspection of the Commissioner of Customs, Salt and Opium, or other officer as aforesaid, or of any person authorized by the Commissioner or such officer to inspect the same;

Inspection of book.

and the Commissioner or other officer or person as aforesaid inspecting the said book may make any minute therein, or any extract therefrom, which he shall think fit;

and any retail-dealer who neglects or refuses to comply with the provisions of this section shall, for every offence, be liable to be deprived of his license by the said Commissioner or other officer as aforesaid, and to pay a fine not exceeding two hundred rupees.

[See note to s. 7 above.]

XVI.—The Commissioner of Customs, Salt and Opium, or other officer as aforesaid, may issue a warrant under his hand and seal to any public officer, commanding him to enter and search between sunrise and sunset any building or place to be specified in the warrant in which

Search-warrant.

tobacco may be deposited under the provisions of this Act, or in which the Commissioner or other officer as aforesaid has been credibly informed, which information shall be taken down in writing, that tobacco is deposited contrary to the provisions of this Act, and to seize and take away from thence any tobacco, or other articles subject to confiscation under this Act.

[See note to s. 7 above.]

Power to
arrest and
detain;

to search
vehicles, &c.

XVII.—The Commissioner of Customs, Salt and Opium, or other officer as aforesaid, or any public officer authorized by the Commissioner or such officer, may arrest and detain any person carrying or having charge of any tobacco liable to confiscation under this Act, and may detain and search any vessel or package, and any boat or vehicle, containing or conveying, or supposed to contain or convey, any such tobacco.

[See note to s. 7 above.]

Confiscation
of tobacco
illegally im-
ported, re-
moved, &c.

XVIII.—All tobacco imported into the said town or removed from one place to another or kept within the said town, or found in the possession of any person in the said town, selling or offering any portion thereof for sale, contrary to the provisions of this Act, and every vessel in which such tobacco is contained and every vehicle, boat or animal employed with the consent and knowledge of the owner or his servant in conveying the same, shall be liable to confiscation :

Mitigation of
penalty.

Provided always, that it shall be lawful for the adjudicating officer to mitigate the penalty of confiscation herein provided, by commuting the same to the payment of any fine not exceeding the value of the goods liable to confiscation ; and every such fine may be enforced, if necessary, by the sale of goods liable to confiscation ;

Penalty for
illegal import-
ation, removal,
sale, or posses-
sion.

XIX.—Any person who shall illegally import, remove or sell in the said town any tobacco, or who shall knowingly have in his possession any tobacco subject to confiscation under this Act, shall be liable to a fine not exceeding ten times the value of such tobacco ; and if the offender is a licensed retail-dealer, he shall be liable to be deprived of his license by the Commissioner of Customs, Salt and Opium, or other officer as aforesaid.

Revocation of
license.

[See note to s. 7 above.]

Levy of fines
and adjudica-
tion and sale
of confisca-
tions.

XX.—All confiscations and fines under this Act may be adjudicated and levied by any Magistrate of Police for the town of Bombay.

Goods adjudged liable to confiscation shall be sold under warrant of the Magistrate.

Interpreta-
tion.

XXI.—The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the context repugnant to such construction :—

The words "town of Bombay" shall include all places within the islands of Bombay and Kolábá ;

Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number ;

Words importing the masculine gender shall include females.

SCHEDULE A.

Form of Permit.

No.

A. B. has been permitted to remove from (Custom-House or licensed warehouse or shop No. , situated in Kalbadevi Street, to warehouse or shop No. , in Bázár Street) the undermentioned quantity of tobacco between sunrise and sunset on the day of in the year

(Signed)

Commissioner of Customs, Salt and Opium.

ACT No. XXIX OF 1857.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

*Received the assent of the Governor General on the
11th September 1857.*

An Act to make better provision for the collection of land-customs on certain foreign frontiers of the Presidency of Bombay.

[See Act XI of 1882, s. 8.]

WHEREAS it is expedient to make better provision for the collection and management of land-customs on certain foreign frontiers of the Presidency of Bombay ; It is enacted as follows :—

I.—[Repealed by Act XIV of 1870.]

II. Duties of customs shall be levied on goods passing by land into or out of Foreign Customs European Settlements situated on the line of Coast within the limits of the Presidency of Bombay, at the rates prescribed in the Schedules of Act I of 1852 for duties of customs by land into leviable at the Ports of that Presidency. into or out of certain Foreign European Settlements.

[This section, though repealed by Act XIII of 1871, is printed as it is referred to in s. 6 below.]

III. The Governor of the Presidency of Bombay in Council may declare, by notice to be published in the *official Gazette* of that Presidency, that the territory of any Native Chief not subject to the jurisdiction of the Courts and Civil authorities of that Presidency, shall be deemed to be Foreign Territory ; and may declare goods passing into or out of such territory liable either to the duty fixed by the Schedules of Act I of 1852 for goods imported or exported at the Ports of that Presidency, or to double the said duties, as the Governor in Council may think fit. Land customs duties on goods passing into or out of territories of Native Chiefs.

[This section, though repealed by Act XI of 1869, is printed as it is referred to in s. 6 below.]

Customs-
stations.

IV.—For the levy of duties of customs on goods exported by land to, or imported by land from, such foreign territories, customs-stations may be established at such places as may be determined by the Governor in Council.

[Printed as amended by Act XVI of 1874.]

Appointment
of officers.

V.—The Governor in Council may appoint such persons as he may deem fit for the control and supervision of the collection and management of the customs payable under this Act as Commissioners and Deputy Commissioners of Customs, or under such other designation as the said Governor in Council shall determine;

and may appoint all other proper persons to execute the duties of the several subordinate offices necessary to the due management and collection of the said customs:

Proviso.

Provided that no new office shall be created without the previous consent of the Governor General of India in Council.

[Printed as amended by Act XVI of 1874.]

Government
to prescribe
by what roads
goods may
pass.

VI.—The Governor in Council may prescribe, by public notice in the official Gazette, by what roads and passes goods shall be allowed to pass into or out of any such foreign territory as is described in sections 2 and 3 of this Act;

and after such notice, goods which may be brought to any station established on other roads or passes than those so prescribed, shall be detained, and shall be liable to confiscation unless the persons in charge thereof shall be able to satisfy the adjudicating officer that his carrying them by that road or pass was from ignorance or accident.

[The Portuguese Settlement of Goa—declared foreign territory and the routes prescribed.—1869 G. G. 103.]

Bugwara—routes prescribed.—1869 G. G. 148, and 1876 G. G. 94-95.

Native State of "Jowar"—declared foreign territory and routes prescribed.—1868 G. G. 819.

Territories of Native Chiefs not subject to the jurisdiction of the Courts of the Bombay Presidency, declared foreign territories and routes for the importation of salt across the Kattyawar Frontier defined.—1869 G. G. 148.

Territory of Goa and the Collectorate of Canara—routes prescribed.—1863 G. G. 1343.

Territories of His Highness the Guicwar, the Rajas of Dharampore and Bansda, and the Nawab of Baroda—declared foreign territories; Customs-stations established and rates of duties leviable on spirits, fermented liquors, &c., fixed.—1873 G. G. 76-76.

The Portuguese Territory of Goa and Daman—routes prescribed.—1892 G. G. 983.

Territories of Native Chiefs not subject to the jurisdiction of the Courts of the Bombay Presidency—declared to be foreign territories so far as respects the duties on salt, and routes prescribed.—1869 G. G. 148 and 1860 G. G. 346-347.]

Goods unlaw-
fully passed
across the
frontier after
sunset.

VII.—Goods unlawfully passed, or attempted to be passed unlawfully, across any frontier guarded by stations, between sunset and sunrise, shall be seized and confiscated.

VIII.—When goods are brought to be passed at any station established for the levy of duties and passing of goods, a written application, according to a form to be prescribed by the Commissioner of Customs, shall be made by the owner or person in charge, for permission to pass such goods; and such application shall contain a true description of the goods, with the marks, numbers and description of the packages containing the same, and a declaration of their value.

Written application for permission to pass goods.

If any goods shall be passed or attempted to be passed without such an application in writing as is above described, they shall be liable to be seized and confiscated.

IX.—Goods brought to be passed at any such station shall be liable to confiscation if the packages in which the same may be contained shall on examination be found not to correspond with the description of them given in the application, or if the contents thereof be found not to have been correctly described in regard to sort, quality or quantity, or if, in or among the packages, any goods not stated in the application be found concealed or mixed up with the specified goods.

Misdescription of goods in application.

X.—The Governor in Council from time to time, by notice in the official Gazette, may fix a value for any article or number of articles liable to duty under this Act upon their value; and the value so fixed for such articles shall, till altered by a similar notice, be taken to be the value of such articles for the purpose of levying duty on the same under this Act.

Government to fix the value of goods for the purpose of levying duty.

XI.—When goods liable to duty, for which a value has not been fixed by such a notice as is above directed, or for which a fixed duty has not been declared, are brought to any such station as aforesaid, the duty leviable on such goods shall be levied according to the market-value of such goods.

Duty leviable on certain goods according to the market-value.

[Printed as amended by Act XII of 1876.]

XII.—If the value of any goods, upon which duty is leviable according to the market-value thereof, shall appear to be understated in the declaration of value prescribed in section 8, the officer authorized to receive duties of customs at the station where such goods are brought to be passed shall have power to take the goods, or any part thereof, as purchased for the Government at the price so declared; and whenever he shall so take goods for the Government, payment thereof shall be made for the same within one month from the date of the declaration, and the officer shall sell the goods so taken on account of Government;

Ascertainment of market-value for levy of duty.

and, if they shall realize on sale a sum exceeding all charges incurred on them by Government, a proportion not more than one-half

of the excess shall, at the discretion of the Commissioner, be payable to the officer who reported the under-valuation of the goods, who shall in like manner be liable to pay one-half of the nett loss that may accrue on the sale of the said goods.

Exemptions. XIII.—No goods liable to duty shall be exempted from the payment of such duty or of any part thereof, except under special order from the Governor in Council ;

provided always that any officer authorized to receive duties of customs under this Act may, at his discretion, pass free of duty any passenger's personal baggage in actual use ; and if any person shall apply to have goods passed as such baggage, such officer, acting under the orders of Government, shall determine whether they be passenger's personal baggage in actual use, or goods subject to duty under the provisions of this Act.

[Printed as amended by Act XII of 1876.]

Certificate of payment of duty.

XIV.—When goods are passed at any such station as aforesaid, the officer authorized to receive duties of customs at such station shall grant a certificate of the payment of such duty, or (if the case so require) of the goods having been passed free of duty.

Any officer of customs employed at a station established under this Act, may require any person in charge of dutiable goods which have been passed across the frontier to produce the certificate granted for such goods ; and any goods which are unaccompanied by a certificate, or which on examination do not correspond with the specification contained in the certificate produced, shall be detained and shall be liable to confiscation.

Granting duplicate of lost certificate.

XV.—If a certificate be lost by any person to whom it may have been issued by the officer authorized to issue the same, the Commissioner of Customs or other officer duly authorized in that behalf, on being satisfied that no fraud has been committed or was intended, may grant a duplicate of such lost document upon payment of a fee of not less than one rupee nor exceeding ten rupees.

The Commissioner or other officer as aforesaid may also authorize any amendment to be made in any application made under this Act, but, if such amendment be required after such application is entered and recorded in the custom-house-books, then upon payment of a like fee for any amendment in a document so entered.

Station-officer permitting goods to pass without payment of duty.

XVI.—Any station-officer who shall permit goods liable to duty to pass across the frontier without payment of duty, or who shall release any goods not covered by a sufficient certificate, or who shall permit such goods to pass by any road or pass other than the prescribed roads or

passes, shall be liable, on conviction before a Magistrate, to imprisonment for any term not exceeding six months, or to a fine not exceeding five hundred rupees, or both.

XVII.—Any station-officer who shall needlessly and vexatiously injure goods under the pretence of examination, or in the course of his examination, or who shall wrongfully detain goods for which there is produced a sufficient certificate, shall be liable, on conviction before a Magistrate, to imprisonment for any term not exceeding six months, or to a fine not exceeding five hundred rupees, or both.

Vexatious seizure by station-officer.

XVIII.—Whoever intentionally obstructs any officer in the exercise of any powers given by this Act to such officer, shall be liable, on conviction before a Magistrate, to imprisonment for any term not exceeding six months, or to a fine not exceeding one thousand rupees, or both.

Obstruction of officers.

XIX.—Whoever offers a bribe to any officer appointed under this Act, in order to induce such officer to act in a manner inconsistent with his duty, shall be liable for every such offence, on conviction before a Magistrate, to a fine not exceeding one thousand rupees or to imprisonment for any term not exceeding six months, or both.

Offering bribes to officers.

XX.—In all cases in which, under this Act, goods are liable to confiscation, a Commissioner or Deputy Commissioner of Customs appointed under this Act may adjudicate such confiscation, or the same may be adjudged by an Assistant Commissioner of Customs appointed under this Act being a Justice of the Peace :

Adjudication of confiscations, &c.

Provided that the power to adjudicate confiscation shall not extend as regards an Assistant Commissioner to goods beyond the value of one hundred rupees ; and all cases adjudicated by an Assistant Commissioner shall be liable to revision by a Commissioner or Deputy Commissioner of Customs on appeal.

XXI.—In case any goods shall be seized as liable to confiscation, or detained as under-valued, under this Act, the adjudicating officer may order the same to be restored in such manner and on such terms and conditions as he thinks fit to direct ; and if the owner of the same accept such terms and conditions, he shall not have or maintain any action for recompense or damage on account of such seizure or detention, and the adjudicating officer shall not proceed to condemnation.

Restoration of forfeited goods.

XXII.—Any officer authorized to adjudicate customs cases, if he shall decide that a seizure of goods made under the authority of this Act was vexatious and unnecessary, may adjudge damages to be paid to the owner by the officer who made such seizure, beside ordering the immediate release of the goods ; and if the owner accepts such damages, no action shall thereafter lie against such officer in any Court of Justice on account of such seizure ;

Damages for vexatious seizure.

Penalty in mitigation of confiscation.

and if such adjudicating officer shall decide that the seizure was warranted, but shall deem that the penalty of confiscation is unduly severe, he may mitigate the same by levying on the goods so seized as aforesaid any portion of the market-value of such goods not less than one-tenth of such value ;

Rewards to customs-officers.

and if the said officer adjudges confiscation, or any penalty in mitigation of confiscation, he may order that, from the sale of the goods, or from the proceeds of any penalty inflicted in mitigation of confiscation, a proportion not exceeding, in all cases of seizure except seizures of salt or tobacco, one-half of the sum remaining after payment of all Government-demands, shall be distributed in rewards amongst such officers as he deems entitled thereto and in such proportion as he directs to each respectively.

In awarding rewards for the seizure of confiscated salt or tobacco, the said officer may award one-half of the proceeds of sale, without making any deduction on account of Government demands.

ACT No. XLVIII OF 1860.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

*Received the assent of the Governor General on the
26th December 1860.*

*An Act to amend Act XIII of 1856 (for regulating the Police
of the towns of Calcutta, Madras, and Bombay).*

[Printed as amended by Act XVI of 1874.]

Preamble.

WHEREAS it is expedient to amend certain provisions of Act XIII of 1856 ;. It is enacted as follows :—

I.—The following sections shall be read with and taken as part of the said Act XIII of 1856.

[Printed as amended by Act XIV of 1870.]

Police-officers taking bribes.

II.—Whoever, being a member of the Police-force or being employed in any Police-office, asks for or takes any bribe or unauthorized reward, may be dismissed by order of the Commissioner, and upon conviction before a Magistrate shall be liable to a fine not exceeding five hundred rupees, or to imprisonment with or without hard labour for any term not exceeding six months.

Members of Police force not to resign, without leave, or six or two months' notice.

III.—No member of the Police-force, to be enrolled under this Act, shall be at liberty to resign his office, or to withdraw himself from the duties thereof, unless expressly allowed so to do in writing by the Commissioner, or unless he shall have given to the Commissioner six months' notice of his intention if a

member of the mounted branch of the said force, and two months' notice if a member of any other branch ;

and every member of the said force, who shall so resign or withdraw himself without such leave or notice, shall be liable, on the order of the Commissioner, to forfeit all arrears of pay then due to him ; and, on the sentence of a Magistrate, if such Magistrate shall think fit, to pay a fine not exceeding fifty rupees or to be imprisoned with or without hard labour for any term not exceeding two months.

IV, V, VI.—[Repealed by Act IV of 1877.]

VII.—Whoever assaults or resists, or aids or incites any person to assault or resist, any Police-officer in the execution of his duty, shall be liable to a fine not exceeding two hundred rupees, or to imprisonment with or without hard labour for any term not exceeding six months, and if the offender shall at the time of committing the offence be undergoing a former sentence of imprisonment, the imprisonment awarded under this section shall commence and take effect from and after the expiration of such former sentence.

Assaulting
Policeman in
execution of
duty.

VIII.—[Repealed by Act IV of 1877.]

IX.—Whoever, without satisfactory excuse, wilfully trespasses in or on any dwelling-house or premises, or any land or ground attached thereto, not thereby causing any actual damage or on any ground belonging to Government, or appropriated to public purposes, shall be liable to a fine not exceeding twenty rupees.

Penalty for
wilful tres-
pass on pro-
perty.

X.—[Repealed by Act IV of 1877.]

XI.—Whoever, in the towns of Calcutta and Madras, has or keeps any hotel, tavern, punch-house, ale-house, arrack or toddy shop, or place for the sale or consumption of ganja, chandul, or other preparation of opium, hemp, or other intoxicating drug, plant, or substance, or any eating-house, coffee-house, boarding-house, lodging-house, or other place of public resort and entertainment, wherein provisions, liquors, or refreshments are sold or consumed (whether the same be kept or retailed therein or procured elsewhere), without a license from the Commissioner of Police ; and.

[This para. is repealed, but is printed as it is referred to in the remaining part of the section.]

Whoever, in the town of Bombay has or keeps any such hotel, tavern, shop or place, or who sells by retail in any place any spirituous or fermented liquors without such license, shall be liable to a fine not exceeding fifty rupees for every day that such unlicensed house or place of any kind is kept open, or that such unlicensed sale is continued :
provided that nothing in this section shall apply to the sale in reasonable quantities, of any drug, plant, or substance in any druggist's or chemist's shop for medicinal purposes only.

Penalty for
keeping such
house and for
retailing spi-
rits in any
place without
a license.

[So much of sections 11, 12, and 13, as relates to the sale of spirituous and fermented liquors in the City of Bombay, is repealed by Bombay Act IX of 1867. The words "hotel, tavern, shop, or place" in the second clause are wide enough to include every place mentioned in the first clause of the section. *Queen Empress v. Shortar Ardesir Brant*, L. L. R., 15 Bom., 530.]

Licenses by
Commissioner
of Police for
keeping tav-
erns and places
of public en-
tertainment.

XII.—The Commissioner of Police shall, from time to time, grant licenses to the keepers of such houses or places of public resort and entertainment as aforesaid in the said towns, and upon such conditions, to be inserted in every such license, as he, with the sanction of the local Government, from time to time, shall order, for securing the good behaviour of the keepers of the said houses or places of public resort and entertainment, and the prevention of drunkenness and disorder among the persons frequenting or using the same;

and the said licenses may be granted by the said Commissioner for any term not exceeding one year;

Licenses to be
granted only
to persons who
have taken
out the re-
quisite *abkári*
licenses.

provided always that it shall not be lawful for the said Commissioner to grant a license to open or establish, or keep open, any house of public entertainment in which any provisions, liquors or refreshments of any kind, or in which any *gánjá*, *chandul*, or other preparation of opium, hemp, or other intoxicating drug, plant or substance, may be sold or consumed, to any person who has not taken out a license for the retail-sale of such articles, if a license be necessary, under the *Abkári* or Excise laws for the time being in force; and any such license granted by the Commissioner shall become void whenever the license necessary under the *Abkári* or Excise laws shall terminate or be recalled.

And every holder of such license may be required by the Commissioner to fix in a conspicuous part of the house or place specified in the license a board, on which shall be legibly painted, in the English and vernacular languages, the name of the holder, and the articles he is licensed to deal in.

Fees on li-
censes.

For every license granted under this section there shall be levied a fee of one rupee. But such fee shall not interfere with the levy of any fee, tax or duty on licenses to retail spirituous liquors in the Islands of Bombay and *Kolá bá* chargeable under Act V of 1842.

[See note to s. 11.]

Forfeiture of
license and
fine.

XIII.—A breach of any of the conditions of a license granted under the last preceding section shall, besides forfeiture of the license, be punishable by a fine not exceeding one hundred rupees, and such fine shall be recovered from the person licensed, notwithstanding that such breach may have been owing to the default or carelessness of the servant or other person in charge of the shop or place of sale.

[See note to s. 11.]

Brothels.

XIV.—On proof to the satisfaction of the Commissioner of Police or of a Magistrate, that a house is used as a common brothel, or lodging-house for prostitutes or disorderly persons of any description, to the annoyance of the respectable inhabitants of the vicinity, such Commissioner or Magistrate may summon the

owner or tenant of the house to answer the complaint, and on being satisfied that the house is so used, and is therefore a source of annoyance and offence to the neighbours, may order the owner or tenant to discontinue such use of it, and if he shall fail to comply with such order within five days, may impose upon him a fine to the extent of twenty-five rupees for every day thereafter that the house shall be so used.

XV.—[Repealed by Bom. Act IV of 1887.]

XVI.—Whoever takes from any child, apparently under the age of fourteen years, any article whatsoever as a pawn, pledge, or security for any sum of money lent or advanced to such child, or without the knowledge and consent of the owner of the article, buys from such child any article whatsoever, shall be liable to a penalty not exceeding one hundred rupees.

Taking pledge from child under the age of fourteen.

XVII.—[Repealed by Bom. Act III of 1888, Sch. A.]

XVIII.—Any officer of Police generally or specially deputed to that duty by the Commissioner of Police may, without a warrant, enter any shop or premises for the purpose of inspecting or searching for any weights or measures or instruments for weighing or measuring used or kept therein.

Powers of Police as to inspection, search and seizure.

If he finds in such shops or premises any weights, measures, or instruments for weighing or measuring which he has reason to believe are false, he may seize the same, and shall forthwith give information of such seizure to the Magistrate having jurisdiction; and if such weights, measures, or instruments shall be found by the Magistrate to be false, they shall be destroyed.

[Printed as substituted for the old section by Bombay Act IV of 1882.]

XIX.—Whoever, within such limits as shall be from time to time defined by the Commissioner of Police with the sanction of the local Government, in any public street, road, thoroughfare, or place of public resort, commits any of the following offences, shall be liable to a fine not exceeding fifty rupees:—

Penalty for the following offences in public streets, &c.

1.—Whoever drives or rides any animal, or drives any vehicle, in a manner so rash or negligent as to indicate a want of due regard for the safety of others.

Furious or negligent driving or riding.

2.—Whoever drives, rides, or leads any elephant or camel without permission from the Commissioner of Police.

Driving, &c., elephant or camel.

3.—Whoever drives any vehicle of any description, at any time between three quarters of an hour after sun-set, and one hour before sun-rise, without a sufficient light, except when, in the opinion of the Magistrate, there may be sufficient moonlight to render such light unnecessary.

Driving a vehicle without a sufficient light.

4.—Whoever, without reasonable cause, shall drive a carriage, cart, or other vehicle otherwise than on the left or near side of the road.

Driving vehicle otherwise than on left side of the road.

Exposing for show, horses, or cleaning or repairing conveyances, or training horses in places not allowed by the Commissioner.

5.—Whoever exposes for show, hire, or sale, any horse or other animal, or any carriage, or cleans or dresses any horse or other animal, or cleans any carriage or other conveyance, or makes or repairs any part of any cart or carriage, except in cases of accident where repair on the spot is necessary; or trains or breaks any horse except in such place and at such times as may be allowed by the Commissioner.

Letting loose horses, ferocious dogs, &c.

6.—Whoever negligently lets loose any horse, or suffers to be at large any ferocious dog without a muzzle, or sets on or urges any dog or other animal to attack, worry, or put in fear any person, horse, or other animal.

Negligence in driving cattle.

7.—Whoever, by negligence or ill-usage in driving cattle, causes any mischief to be done by such cattle, or in any wise misbehaves himself in the driving, management, or care of such cattle, so as to cause mischief or obstruction.

Leaving cart, &c., without control.

8.—Whoever, being in charge of a cart, carriage, or horse, leaves it at such a distance as not to have the same under due control.

Obstructing road or thoroughfare by carriage, &c.

9.—Whoever causes any cart or truck, with or without horses or cattle, to remain or stand longer than may be necessary for loading or unloading, except at places lawfully appointed for the purpose; or leaves any cart, carriage, or truck, or fastens any horse or other animal, so as to cause any obstruction in any thoroughfare.

Obstructing foot-way.

10.—Whoever leads or rides any horse or other animal, or draws or drives any cart, carriage, or truck upon any foot-way, or fastens any horse or animal so that it can stand across or upon any foot-way.

Obstructing thoroughfare by boxes, bales of goods, &c.
Exposing articles for sale so as to cause obstruction.

11.—Whoever leaves any box, bale of goods, or any other thing whatsoever so as to cause obstruction in any thoroughfare.

12.—Whoever exposes for sale, or sets out in or upon any stall, booth, show-board, cask, or basket, or otherwise, any meat, fish, vegetable, fruit, groceries or any other thing whatsoever, so as to cause obstruction in any thoroughfare.

Beating drums, tom-tom, &c.

13.—Whoever beats a drum or tom-tom, or blows a horn or trumpet, or beats or sounds any brass or other metal instrument, or utensil, except at such times and places as shall be from time to time allowed by the Commissioner of Police.

Lighting fires and discharging guns, fireworks, &c.

14.—Whoever sets fire to, or burns any straw or other matter, or lights any bonfire, or wantonly discharges any fire-arm or air-gun, or lets off or throws any fire-work, or sends up any fire-balloon, in or near any public street, road or thoroughfare, except at such times and places as shall from time to time be allowed by the Commissioner of Police.

15.—Whoever, without the consent of the Commissioner of Illuminations, Police, puts up any post or other thing on the side of any public street, for the purpose of affixing thereon lamps to illuminate the street.

16.—[Repealed by Bom. Act III of 1888.]

17.—Whoever bathes or washes himself in any public street, or in, upon, or by the side of, any public tank, reservoir or aqueduct, not being a place set apart for such purpose.

Bathing, &c.,
in public
street or
aqueduct.

18.—Whoever obstructs or incommodes a person bathing at any place set apart as a bathing-place, by wilful intrusion, or by using such place as a landing-place, or by anchoring or otherwise fastening or keeping boats, or by washing horses, cattle, or dogs at or near such place, or in any other way.

Obstructing
persons at
bathing-
places.

19.—Whoever uses any indecent, threatening, abusive, or insulting words, or behaves in a threatening or insulting manner, or posts up or affixes, or exhibits any indecent, threatening, abusive, or insulting printed, lithographed, or written paper or drawing, with the intent to provoke a breach of the peace, or whereby a breach of the peace may be occasioned.

Indecent
language.

XX.—The Commissioner of Police in Bombay shall, from time to time, subject to the orders of the local Government, make and publish in the Government Gazette, rules for the blasting of rocks in or near any public road, street, thoroughfare, or place, in the Islands of Bombay and Kolá bá; and may give licenses for such operations when he shall think fit, and every person who shall blast any such rocks, otherwise than according to the provisions of such rules, or who shall violate any condition of a license granted under this section, shall be liable to a fine not exceeding one hundred rupees.

Commissioner
of Police in
Bombay to
make rules
for blasting
of rocks.

XXI.—Whoever cruelly beats, ill-treats, abuses, or tortures, or causes or procures to be cruelly beaten, ill-treated, abused, or tortured any animal, shall, for every such offence, be liable to a fine not exceeding one hundred rupees, and in default thereof to imprisonment, with or without hard labour, for a period not exceeding three months.

Cruelty to
animals.

XXII.—Whoever is found drunk and incapable of taking care of himself, or is guilty of any riotous, disorderly or indecent behaviour in any street or thoroughfare, or in any place of public amusement or resort; and whoever is guilty of any violent, disorderly, or indecent behaviour in any Police-Court, office, station, or section-house shall be liable to a fine not exceeding twenty rupees, or to imprisonment, with or without hard labour, for a term not exceeding fourteen days.

Penalty for
drunkenness,
or riotous or
indecent be-
haviour in
public.

XXIII.—[Repealed by Bengal Act IV of 1866.]

XXIV, XXV, XXVI.—[Repealed by Act IV of 1877.]

Punishment
for non-
attendance on
summons or
subpoena.

XXVII.—When any person shall be served with a summons or subpoena under this Act, and shall fail to attend before the Commissioner or Magistrate issuing such summons or subpoena, according to the exigency thereof, he shall be liable to a fine not exceeding twenty rupees for every such offence, and in default of payment to imprisonment for one week if the fine be not sooner paid.

Stray animals
to be im-
pounded and
sold unless
redeemed
within ten
days.

XXVIII.—It shall be lawful for all persons, and it is hereby declared to be the special duty of all Police-officers, to seize all cattle or other animals found straying upon the roads, streets or thoroughfares, or trespassing on any of the grounds or property of the inhabitants, or of the Government, and to confine such animals in any public pound which shall for such purpose be, from time to time, appointed by the Commissioner of Police; and if such animals shall not be respectively redeemed by the owners of the same within ten days after being so pounded, by paying to the person to be appointed by the said Commissioner to have charge of such pound, the fee of eight annas for every goat, sheep, or hog, and one rupee for every other animal, together with the expenses of feeding the same while impounded, according to a daily rate to be settled by the said Commissioner, such animals so impounded shall be publicly sold, and the produce of such sale after paying the said fee, and also the expenses of feeding, shall be paid to the owners of such animal, or, in default of their claiming such produce for the space of fifteen days after such sale, shall be retained by the said Commissioner, and credited to the Police Superannuation Fund.

Limitation of
action.

XXIX.—Clause 1.—All actions and prosecutions against any person, which may be lawfully brought for anything done, or intended to be done, under the provisions of this Act, shall be commenced within three months after the act complained of shall have been committed, and not otherwise; and notice in writing of such action, and of the cause thereof, shall be given to the defendant one month at least before the commencement of the action; and in every such action it shall be expressly alleged in the plaint, that the act complained of was done maliciously and without reasonable or probable cause, and if at the trial of any such action, upon the general issue being pleaded as hereinafter provided, the plaintiff shall fail to prove such allegation, he shall be nonsuited, and a verdict shall be given for the defendant.

Notice of
action.

Plea.

Clause 2.—The defendant in any such action may plead the general issue and give this Act and the special matter in evidence at any trial to be had thereupon; and no plaintiff shall recover in any such action, if tender of sufficient amends shall have been made before such action brought, or if a sufficient sum of money shall have been paid into Court after such action brought, by or on behalf of the defendant; and if a verdict shall pass for the defendant, or the plaintiff shall become nonsuit,

Tender of
amends.

Costs.

or discontinue any such action after issue joined, or if, upon demurrer or otherwise, judgment shall be given against the plaintiff, the defendant shall recover his full costs as between attorney and client, and have the like remedy for the same, as any defendant hath by law in other cases; and though a verdict shall be given for plaintiff in any such action, such plaintiff shall not have costs against the defendant, unless the Judge, before whom the trial shall be, shall certify his approbation of the action, and of the verdict obtained thereupon.

ACT No. II OF 1864.

PASSED BY THE GOVERNOR-GENERAL OF INDIA
IN COUNCIL.

(Received the assent of the Governor-General on the 12th February 1864.)

An Act to provide for the administration of civil and criminal justice at Aden.

WHEREAS the administration of civil and criminal justice at Aden is now entrusted to the Resident and in subordination to him to the Assistant Resident; and whereas Her Majesty has by Her Letters Patent, dated the twenty-second June, 1860, appointed the Resident at Aden to be Judge of Her Majesty's Vice-admiralty Court at Aden for the purposes of and according to the provisions of the Statute 12 and 13 Vic., cap. 84; and whereas the criminal law to be administered at Aden is provided for by the Indian Penal Code, but the law to be administered at Aden in civil matters and the precise nature of the criminal and civil jurisdiction of the Resident, and the proper course of procedure in his Court, have never been defined, and it is expedient that they should be provided for; and whereas at present judgments and proceedings of the Resident at Aden are not subject to the superintendence or revision of any Court of justice, except so far as they are subject to appeal to Her Majesty in Council, and it is expedient to provide for the superintendence or revision of certain of such judgments and proceedings by the High Court at Bombay: It is enacted as follows:—

[The word Aden is defined by Regulation II of 1891 "to mean the settlement of Aden and such of its dependencies for the time being, inclusive of the villages of Shaikh Othman, Imad, and Hiswa, the island of Perim and Little Aden, as are administered by the Governor of Bombay in Council."—See 1891 G. G. 409. The difficulties that arose in the case of *Emp. v. Mangal*, I. L. R., 10 Bom. 253, 263, 274, have now disappeared.]

1. The following words and expressions in this Act shall have the meanings hereby assigned to them unless there be something in the subject or context repugnant thereto, that is to say:—

The word "Resident" denotes the chief civil officer at Aden appointed by the Government by whatever designation such officer

may be called, and includes any Acting Resident or officer acting temporarily as such chief civil officer.

" Assistant Resident."

The words " Assistant Resident " denote any officer appointed by the Government to assist the Resident at Aden by whatever designation such officer may be called, and includes an Acting Assistant.

" Court of the Resident."

The words " Court of the Resident " include the Court of any Assistant Resident.

Number. .

Words importing the singular number include the plural number, and words importing the plural number include the singular number.

Gender.

Words importing the masculine gender include females.

CIVIL JURISDICTION.

Administra-
tion of Civil
Justice vest-
ed in the
Court of the
Resident.

2. The administration of civil justice at Aden is hereby declared to be vested in the Court of the Resident.

[The following provisions for the administration of civil justice in the Island of Perim have been framed by the Governor in Council under s. 6 of Act XIV of 1874:—

1. Except as hereinafter otherwise provided, the administration of civil justice in the Island of Perim, is vested in the Court of the Resident, Aden.

2. The Resident, Aden, and the Assistant Residents shall have respectively the like powers to hear and determine, in the first instance, civil cases instituted in the Court of the Resident, which originate in or relate to the Island of Perim, as they have under Act II of 1864 to hear and determine civil cases instituted in the said Court originating in or relating to Aden.

3. Complaints and applications in civil cases originating in or relating to the Island of Perim may be presented either direct to the Court of the Resident at Aden or the Assistant Political Resident in charge Perim, who shall, on receipt of any such complaint or application, cause the date of presentation to be noted thereon, and shall forward the same to the Court of the Resident, unless the said complaint or application relates to any case within the jurisdiction of such officer as Judge of a Court of Small Causes as hereinafter provided.

4. The Resident shall receive complaints and applications in civil cases originating in or relating to the Island of Perim which are forwarded by post, and shall proceed thereupon in the same manner as if such complaints or applications had been presented in Court.

5. Civil cases originating in or relating to the Island of Perim, may be heard and determined by the Resident or by an Assistant Resident at Aden, or in the Island of Perim, as the Resident shall think fit to direct.

6. The Assistant Political Resident in charge Perim, shall have and exercise the jurisdiction and powers and shall perform the duties of the Judge of the Court of Small Causes constituted at Perim under the provisions of Act XI of 1865. 1886 G. G. 1062.]

Resident may
try, in the
first instance,
all cases insti-
tuted in the
Court of the
Resident.
Assistant Resi-
dents may try
cases allotted
to them.

3. The Resident may hear and determine, in the first instance, all cases instituted in the Court of the Resident, of whatever nature and whatever may be the amount or value of the property in dispute.

4. The Assistant Residents shall have power to hear and determine, in the first instance, all cases instituted in the Court of the Resident of whatever nature and whatever may be the amount or value of the property in dispute.

The Resident may from time to time direct in what manner the cases instituted in his Court shall be distributed amongst the Assistant Residents.

5. When any suit which relates to immoveable property, or in which the claim, estimated according to any law for the valuation of claims for the time being in force, shall exceed five hundred rupees in value, is tried in the first instance by an Assistant Resident, an appeal shall lie from his decision to the Resident.

Appeal in what cases to lie from Assistant Resident to Resident.

An appeal shall also lie to the Resident from all orders passed by an Assistant Resident in the execution of a decree or other order from which, had the order been passed by a Court subordinate to the Court of a District Judge in the Presidency of Bombay, an appeal would have been allowed to the District Judge, as well as from all orders passed by an Assistant Resident in cases other than suits as defined in the Code of Civil Procedure.

6. For the hearing and determination of appeals from decisions and orders under the last preceding section, the Resident shall (save as herein is otherwise provided) possess and exercise the powers of a District Judge in the Bombay Presidency with reference to the Courts subordinate to him.

Powers of Resident in hearing appeals.

7. No appeal shall lie from the decision of an Assistant Resident in any suit not relating to immoveable property in which the claim estimated as aforesaid shall not exceed five hundred rupees in value; but the Resident may, within the period allowed for appeal in appealable cases, call for any proceedings of the Assistant Resident at any stage thereof, and may pass such orders thereon as he may think fit.

No appeal in other cases.

8. No appeal shall lie from any decision or order of the Resident given or made by him, whether in the exercise of his original jurisdiction, or in the exercise of his jurisdiction as a Court of Appeal or of Revision; but if in the trial of any suit in which the claim estimated as aforesaid shall not exceed one thousand rupees in value, any question of law or of usage having the force of law or of the construction of a document affecting the merits of the decision shall arise, on which the Resident shall entertain doubts, the Resident may, either of his own motion, or on the application of any of the parties to the suit, draw up a statement of the case and submit it, with his own opinion, for the decision of the High Court of Judicature at Bombay:

No appeal from Resident.

But he may refer question of law, &c., to High Court

and if in the trial of any suit or the hearing of an appeal in any suit in which the claim, estimated as aforesaid, shall exceed one thousand rupees in value, any question of fact or of law or of usage having the force of law or of the construction of a document affecting the merits of the decision shall arise, the Resident shall, on the application of any of the parties to the suit, or he may of his own motion, draw up a statement of the case and submit it with his own opinion for the decision of the said High Court.

Resident may pass decree contingent upon the opinion of the High Court, pending which execution not to issue.

Full bench of the High Court to decide cases referred under this Act.

Parties may appear and be heard in person or by pleader. Decision of High Court how to be transmitted.

Costs of reference to High Court.

Resident to have powers of a Small Cause Court.

Administration of Civil Justice to be according to spirit and principles of the Bombay Laws and Regulations.

9. The Resident may proceed in the case notwithstanding a reference to the High Court, and may pass a decree contingent upon the opinion of the High Court on the point referred; but no execution shall be issued in any case in which a reference shall be made to the High Court, until the receipt of the order of that Court.

10. Cases referred for the opinion of the High Court shall be heard by two or more Judges of that Court. Before giving judgment the High Court may call for and peruse the whole or any part of the proceedings of the Court of the Resident, but shall not be bound so to do.

11. The parties to the case may appear and be heard in the High Court in person or by a pleader.

12. The High Court, when it has heard and considered the case, shall transmit to the Resident a copy of its judgment, under the seal of the Court and the signature of the Registrar; and the Resident shall, on the receipt thereof, proceed to dispose of the case conformably to the decision of the High Court.

13. Costs, if any, consequent on the reference of a case for the opinion of the High Court, shall be costs in the suit.

14. When any suit tried in the first instance by the Resident is of such a nature as to be cognizable under Act XLII of 1860 (*for the establishment of Courts of Small Causes beyond the local limits of the jurisdiction of the Supreme Courts of Judicature established by Royal Charter*), the Resident shall, in such suit, have all the powers conferred on, and shall be guided by all the provisions applicable to, a Court of Small Causes constituted within the Presidency of Bombay under the said Act or any other Act for the time being in force not being an Act relating to Courts of Small Causes in the Presidency Towns: and every Assistant Resident who shall have been vested by the Governor of Bombay in Council with the powers of a Judge of a Court of Small Causes as defined in the said Act XLII of 1860 or any Act passed in supersession thereof, shall have the like powers and be guided by the like provisions in any suit tried by him in the first instance and of a nature cognizable under the said Act XLII of 1860, any thing in section 5 of this Act contained to the contrary notwithstanding.

15. In the administration of Civil Justice, the Court of the Resident shall be guided by the spirit and principles of the Laws and Regulations in force in the Presidency of Bombay, and administered in the Courts of that Presidency not established by Royal Charter, and in the High Court in the exercise of its jurisdiction as a Court of Appeal from those Courts.

CIVIL PROCEDURE.

16. Except as otherwise provided in this Act, the proceedings in suits and cases of every description between party and party brought in the Court of the Resident shall be regulated by the Code of Civil Procedure, and by any other Act or Acts in relation to Civil Procedure in force for the time being.

Code of Civil
Procedure
applicable.

CRIMINAL JURISDICTION.

17. The administration of Criminal Justice at Aden is hereby declared to be vested in the Court of the Resident, save as is herein otherwise provided.

Administra-
tion of crimi-
nal justice
vested in
Court of the
Resident, sub-
ject to proviso.
Governor of
Bombay may
give Assistant
Residents cer-
tain powers.

18. The Governor of Bombay in Council may invest any Assistant Resident with the powers of a Magistrate, or of a subordinate Magistrate of the first or second class as described in the Code of Criminal Procedure, and such Assistant Resident shall exercise such powers under the said Code, but subject to the provisions of this Act.

19. In every case tried by an Assistant Resident in which the punishment awarded shall be imprisonment for a period exceeding six months with or without fine, or shall be only a fine exceeding five hundred rupees, an appeal shall lie from the sentence of the Assistant Resident to the Resident.

Appeal from
Assistant Re-
sident to Re-
sident in what
cases.

No appeal shall lie from the sentence of an Assistant Resident in any case in which the punishment awarded shall be imprisonment for a period not exceeding six months with or without fine, or shall be only a fine not exceeding five hundred rupees; but the Resident may in all cases, within the period allowed for appeal in appealable cases, call for any proceedings whatever of the Assistant Resident at any stage thereof, and may pass such order thereon as he may think fit.

20. The Resident shall, except as in this Act is otherwise provided, exercise all the powers of a Court of Session as defined in the Code of Criminal Procedure, and he may also, when it shall seem to him proper so to do, exercise the powers of a Magistrate as defined in the said Code, except in cases triable before himself as a Court of Session.

Resident to
exercise powers
of Court of
Session and
also of a
Magistrate.

21. The Resident in the exercise of his powers as a Court of Session shall hold gaol deliveries at convenient periods, of which due notice shall be given, for the trial of all persons charged with offences punishable under the Indian Penal Code, or under any other law in force for the time being, who may be committed to take their trial before him as a Court of Session.

As a Court of
Session to
hold gaol deli-
veries.

European British subjects charged with offences punishable with death, to be committed for trial to High Court at Bombay.

Provided that the Resident shall not have power to try any European British subject charged with an offence punishable with death under the said Code.

The commitment of any European British subject charged with any such offence shall be made to the High Court at Bombay.

In all other cases the commitments made within the limits of the jurisdiction of the Court of the Resident for offences punishable under the Indian Penal Code, shall be made to the Court of the Resident.

Commitment and trial of such subjects, when charged with offences other than those punishable with death.

22. If any European British subject shall be charged in Aden with any offence (other than an offence punishable with death under the Indian Penal Code), which a Justice of the Peace shall not be competent to punish, and there shall be sufficient grounds for committing him for trial, such European British subject shall be committed to the Court of the Resident, and shall be tried by the Resident.

CRIMINAL PROCEDURE.

Proceedings in criminal cases how to be regulated.

23. Save as in this Act otherwise provided, the proceedings in all criminal cases of any description brought in any Court in Aden shall be regulated by the Code of Criminal Procedure.

Trial of European or American by the Resident to be by jury.

24. Criminal trials before the Resident as a Court of Session, in which a European (whether a British subject or not) or an American is the accused person or one of the accused persons, shall be by jury, and in such case the jury, if such European or American shall desire it, shall consist of at least one half Europeans or Americans, if such a jury can be procured.

List of jurors.

25. The Resident shall from time to time prepare and make out in alphabetical order, a List of persons residing at Aden who are in the judgment of the Resident qualified from their education and character to serve as jurors.

The List shall contain the names, places of abode and quality or business of every such person, and shall mention the race to which he belongs.

Publication of List.

26. Copies of such List shall be stuck up in the Court of the Resident, and every such copy shall have subjoined to it a notice stating that objections to the List will be heard and determined by the Resident at a time and place mentioned in the notice.

Provisions of Criminal Procedure Code to apply to Jurors.

27. All the provisions of the Criminal Procedure Code as to Jurors and the List of Jurors shall be applied, so far as the same can be applied respectively, to Jurors and the List of Jurors under this Act:

Persons in Military Service not exempted from serving as Jurors.

provided that no person shall be exempt from the liability to serve as a Juror on the ground only of his being in the Military Service;

provided also that the Jurors shall be summoned by the Resident.

28. If on any trial, sentence of death shall be passed by the Resident, such sentence shall not be carried into execution until it shall have been confirmed by the High Court at Bombay.

Execution or commutation of sentence of death.

It shall be lawful for the High Court at Bombay, in any case in which it shall seem proper so to do, to commute a sentence of death to a sentence of transportation for life, or for any shorter period not less than seven years.

29. No appeal shall lie from an order or sentence passed by the Resident in any Criminal case.

No appeal from order of Resident but he may reserve points for High Court.

But it shall be at the discretion of the Resident to reserve any point or points of law for the opinion of the said High Court.

30. On such point or points of law being so reserved as in the last preceding Section mentioned, or on its being certified by the Advocate-General at Bombay that in his judgment there is an error in the decision of a point or points of law decided by the Resident, or that a point of law decided by the said Resident should be further considered, the said High Court shall have full power and authority to review the case or such part of it as may be necessary, and finally determine such point of law, and thereupon to pass such judgment and sentence as to the said High Court shall seem right.

Review of case by High Court.

GENERAL RULES.

31. The High Court at Bombay shall have power to make and issue general rules for regulating the practice and proceedings of the Court of the Resident, and also to frame forms for every proceeding in the said Court for which the said High Court shall think it necessary that a form should be provided, for keeping all books, entries and accounts to be kept by the officers, and for the preparation and submission of any statements to be prepared and submitted by the Court of the Resident, and from time to time to alter any such rule or form : provided that such rules and forms shall not be inconsistent with the provisions of this Act, or of any other law in force.

High Court to frame rules for Resident's Court.

ACT No. XXIII OF 1866.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 17th May, 1866.)
An Act to correct two clerical errors in the Letters Patent for the High Court of Judicature for the Presidency of Bombay.

WHEREAS the twenty-second Section of the Letters Patent for the High Court of Judicature for the Presidency of Bombay, dated

Preamble.

the 28th December, 1865, is as follows :—“ And we do further ordain that the said High Court of Judicature at Bombay shall have ordinary original Criminal jurisdiction within the local limits of its ordinary original Civil jurisdiction, and also in respect of all *such* persons beyond such limits over whom the said High Court of Judicature at *Fort William in Bengal* shall have Criminal jurisdiction at the date of the publication of these presents ;” And whereas it is expedient to correct the two clerical errors in such Section which are hereinbefore indicated by italics ; It is hereby enacted as follows :—

Clause substituted for Section 22 of revised Letters Patent of High Court of Bombay.

1. In lieu of the said recited Section, the following shall be substituted :—

“ And we do further ordain that the said High Court of Judicature at Bombay shall have ordinary original Criminal jurisdiction within the local limits of its ordinary original Civil jurisdiction, and also in respect of all persons beyond such limits over whom the said High Court of Judicature at Bombay shall have Criminal jurisdiction at the date of the publication of these presents.”

ACT No. IV OF 1868.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

[Repealed, except in the Scheduled Districts, by Act No. XIV of 1874.]

(Received the assent of the Governor-General on the 14th February, 1868.)

An Act to exempt certain villages in the Bombay Presidency from the operation of the Regulations and Acts in force in that Presidency.

Preamble.

WHEREAS the villages mentioned in the schedule to this Act have, by virtue of the enactments hereinafter specified, been brought under the operation of the Regulations and Acts in force in the Presidency of Bombay. And whereas it is expedient to exempt such villages from the operation of the Regulations and Acts aforesaid ; It is hereby enacted as follows :—

Repeal of enactments.

1. So much of Regulation XXIX of 1827 of the Bombay Code, and of Act No. VI of 1842 of the Governor-General of India in Council, and of Act No. III of 1863 of the Governor of Bombay in Council, as relates to the said villages, is hereby repealed.

SCHEDULE.

NAME OF VILLAGE.	DISTRICT.	Law by which each village was brought under the Regulations and Acts of the Presidency of Bombay.
1. The Pant Sachiv's village of Apti, taraf Hirdas, Mával	Puna	... Bombay Regulation XXIX of 1827.
2, 3, 4. The Pant Sachiv's villages of Vátár, Bhámburdi and Gunand in that part of the tarafs of Nír Thádi and Sirval which lies north of the Níra river ...		
5. The Daphle's village of Muchandi in pargana Jath... ..		
6. The Sànglikar's village of Dorli in karyát Sávarda		
7. The Sànglikar's village of Borgaon in karyát Digráj	Belgaum	... Act VI of 1842.
8. The Mirajkar's village of Dupat Borgaon in karyát Dugdaon	Sátára	... Bombay Act III of 1863.
9. The village of Sangam Máhuli, taraf Vandan, belonging to the Pant Pratinidhi ...		
10. The village of Kinhí, Sammat Koregon, belonging to the Pant Pratinidhi ...		

ACT No. V OF 1868.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 13th March, 1868.)

An Act to enable the Governor of Bombay in Council to delegate to the Commissioner in Sindh certain of the powers of a Local Government.

1. It shall be lawful for the Governor of Bombay in Council, by a notification published in the *Bombay Government Gazette*, to delegate to the Commissioner in Sindh all or any of the powers conferred on the said Governor in Council, as the Local Government of the Province of Sindh, by any of the Bombay Regulations, or by any Act of the Governor-General of India in Council solely applicable to the Presidency of Bombay, or by any Act passed heretofore or hereafter by the Governor of Bombay in Council, or by any of the Acts of the Governor-General of India in Council mentioned in the schedule to this Act.

[The powers conferred on the Governor of Bombay in Council by the following Regulations and Acts are delegated to the Commissioner of Sindh under section 1 of the Act:—

Reg. XVI of 1827, sec. 14, cl. 3.

Reg. XXI of 1827, secs. 2, 3, & 8.

Reg. XX of 1830.

Act XXVI of 1850.

(Bombay) Act II of 1862.

Act VII of 1854, secs 1, 12, 13, & 14.

Act XLV of 1860, sec. 271.

Act XXV of 1861, secs. 390, 394, & 397.

Act VII of 1865, secs. 14 & 15.

Act VI of 1863, sec. 19.

(1868 G. G. 286, 1870 G. G. 566, and 1871 G. G. 389).

(Bombay) Act VII of 1867, sec. 16 (1868 G. G. 882).

Criminal Procedure Code, sec. 395.

(Bombay) Act VI of 1863, sec. 14.

(Bombay) Act VII of 1867, sec. 7, so far as it relates to the powers of Subordinate Magistrates, First and Second class (1868 G. G. 1725).

(Bombay) Act II of 1864 (1869 G. G. 5).

Act VIII of 1869, secs. 390, 394, 395, 396, & 397.

(1869 G. G. 717 ; 1871 G. G. 46).

(Bombay) Act II of 1883 (1885 G. G. 570).

The Code of Criminal Procedure, secs. 466, 471, 474, & 475 (1887 G. G. 883).

(Bombay) Act I of 1889, ss. 5; 7: 19 cl. 1; 2; 21 cl. 1; 22 cl. 2; 41 cl. 1; 42; 44; (1892 G. G. 71).

(Bombay) Act IV of 1890, s. 45 (2) (1892 G. G. 665).

The Bombay Salt Act, 1890, secs. 6, 10, cl. 1, 17, cl. 2, 24, cls. 1 & 2 (except the power to suppress a salt work) and 25 (1890 G. G. 954).]

Governor of
Bombay in
Council may,
with consent
of Governor-
General in
Council, dele-
gate to
Commissioner
of Sindh
certain powers
of Local
Government.

2. It shall be lawful for the Governor of Bombay in Council, with the consent of the Governor-General of India in Council, to delegate to the Commissioner in Sindh all or any of the powers heretofore or hereafter conferred by any Act of the Governor-General of India in Council on the Governor of Bombay in Council as the Local Government of the Province of Sindh.

[The powers conferred on a Local Government by the following enactments, are delegated to the Commissioner in Sindh under section 2 of the Act:—

Act V of 1871, secs. 30 & 31 (1871 G. G. 389).

Act I of 1871, secs. 4 & 18 (1871 G. G. 709).

Act X of 1872, sec. 40 (1873 G. G. 473).

Act X of 1872, chapter 31, secs. 483 & 434, 426, & 430 (with reference to lunatics) (1874 G. G. 34 and 1874 G. G. 312).

Act X of 1870 (having effect from the 10th May 1871), (1874 G. G. 654).

The Indian Ports Act 1875 (1880 G. G. 505).]

Acts XX of 1879; VI of 1884 (1893 G. G. 338; 538).

Validation of
acts of Com-
missioner.

3. All acts done by the Commissioner in Sindh under the authority of any power so delegated, shall be as valid as if they had been done by the Governor of Bombay in Council.

SCHEDULE.

Act XXV of 1861 (for simplifying the Procedure of the Courts of Criminal Judicature not established by Royal Charter).

Act VI of 1863 (to consolidate and amend the laws relating to the administration of the Department of Sea-Customs in India).

The Foreign Jurisdiction and Extradition Act, 1879.

The Indian Forest Act, 1878.

[Printed as amended by Act XII of 1891.]

THE BOMBAY COURTS' ACT.

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ACT No. XIV OF 1869.

PASSED BY THE GOVERNOR-GENERAL OF INDIA
IN COUNCIL.

(Received the assent of the Governor-General on the 19th March, 1869.)

An Act to consolidate and amend the law relating to the District and subordinate Civil Courts in the Presidency of Bombay.

Preamble.

WHEREAS it is expedient to consolidate and amend the law relating to the District and other subordinate Civil Courts in the Presidency of Bombay; It is hereby enacted as follows:—

PART I.—Preliminary.

- 1. This Act may be called "The Bombay Civil Courts' Act,"
- Short title.
Extent of Act. 1869, and extends only to the territories (other than Sindh) under

the Government of the Governor of Bombay in Council in which the Code of Civil Procedure is now in force.

But the Governor of Bombay in Council may, by notification in the Government Gazette, extend this Act to any other of the territories under such Government in which the said Code is not in force, or to Sindh.

[This Act has been extended to the following villages:—

1. Bhogaon.	7. Chincholi.	} Added to Sholapur Taluka, of the Collectorate of Sholapur.
2. Mardi.	8. Akola.	
3. Taratgaon.	9. Biparga.	
4. Takalgaon.	10. Gulwanchi.	
5. Raleras.	11. Wadji.	
6. Kegaon.		

1. Bhatiori.	2. Atwad.	} Added to the Nagur Taluka, of the Collectorate of Ahmednagar.
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(1876 G. G. 500).

1. Jehur.	6. Tolnur.	} Added to Sholapur Taluka, of the Collectorate of Sholapur.
2. Gaodgaon.	7. Dudhani.	
3. Karabgaon.	and	
4. Nagansur.	8. Baroti.	
5. Udgi.		

(1876 G. G. 1021).

The jurisdiction, powers, and duties of the High Court under such portions of this Act, as are in force in the Province of Sindh, shall be exercised or performed by the Sadar Court of that Province. (1887 G. G. 452).]

2.—[Repealed by Act XIV of 1870.]

PART II.—*Districts and Sadr Stations.*

3. The Governor of Bombay in Council may from time to time, by notification in the Government Gazette, alter the limits of existing Zilas (which shall hereafter be called Districts) and create new Districts for the purposes of this Act.

[Ss. 3 and 4 have been extended to the Province of Sindh. 1882 G. G. 224.]

4. The Governor of Bombay in Council may also from time to time, by notification in the Government Gazette, alter the position of the Sadr station in any District, and fix the position of the Sadr station in any new District.

[See note to s. 3.]

PART III.—*District Courts.*

5. There shall be in each District a District Court presided over by a Judge to be called the District Judge. He shall be appointed by the Governor of Bombay in Council by whose authority only he shall be liable to be suspended or removed from his appointment.

[Printed as amended by Act XII of 1876.]

Having regard to the necessity that members of the Covenanted Civil Service should receive an adequate judicial training before being appointed District and Sessions Judges,

His Excellency the Governor in Council is pleased to add the following Rule to those published under Government Notification No. 4068 of the 28th July 1873:—

"Except for special reasons, no officer will be appointed a District and Sessions Judge until he shall have actually served for three years as an Assistant Judge, or in one of the following appointments, *viz.*:—Judicial Under Secretary to Government. Judicial Assistant to the Political Agent in Káthiáwár. Judge of a Court of Small Causes." 1886 G. G. 93.

"Members of the Covenanted Civil Service will not be considered qualified to apply for Judicial duty, until they have served 4 years in India and have passed the Departmental Examination according to the Higher Standard."—1873 G. G. 638.]

Situation of District Court.

6. The District Judge shall ordinarily hold the District Court at the Sadr station in his District, but may, with the previous sanction of the High Court, hold it elsewhere within the District.

Original jurisdiction of District Judge.

7. The District Court shall be the principal Court of original civil Jurisdiction in the District, within the meaning of the Code of Civil Procedure.

His appellate jurisdiction.

8. Except as provided in sections 16, 17 and 26, the District Court shall be the Court of Appeal from all decrees and orders passed by the subordinate Courts from which an appeal lies under any law for the time being in force.

Control and inspection of Courts.

9. The District Judge shall have general control over all the Civil Courts and their establishments within the District, and it shall be his duty to inspect, or to cause one of his Assistants to inspect, the proceedings of all the Courts subordinate to him, and to give such directions with respect to matters not provided for by law as he may think necessary.

The District Judge shall also refer to the High Court all such matters as appear to him to require that a rule of that Court should be made thereon.

Writs and orders.

10. The District Judge shall obey all writs, orders or processes issued to him by the High Court, and shall make such returns or reports thereto under his signature and the seal of the Court as the exigencies of the case require.

Reports and returns.

He shall further furnish such reports and returns and copies of proceedings as may be called for by the High Court or the Governor of Bombay in Council.

Seal of District Judge.

11. The District Judge shall use a circular seal, two inches in diameter, which shall bear thereon the Royal Arms with the following inscription in English and the principal language of the district—
"District Court of _____"

PART IV.—*Joint Judges.*

Power to appoint Joint Judges.

12. The Governor of Bombay in Council may, with the previous sanction of the Governor-General of India in Council, appoint in any District a Joint Judge who shall be invested with co-extensive powers and a concurrent jurisdiction with the District Judge, except that he

shall not keep a file of civil suits and shall transact such civil business only as he may receive from the District Judge, or as may have been referred to the Joint Judge by order of the High Court.

When the appointment of a Joint Judge shall have been sanctioned by the Governor-General of India in Council, the Governor of Bombay in Council may, so long as such sanction continues in force, appoint a successor to such Joint Judge in case his office becomes vacant, or transfer such Joint Judge from one District to another; and in such other District the Joint Judge so transferred shall have the same powers as he had in the former District.

[Ss. 14 to 20 and ss. 23, 32, and 35 to 37 and 43 have been extended to Sindh, 1882 G. G. 2 and 1887 G. G. 452.]

13. All Regulations and Acts now or hereafter in force and applying to a District Judge shall be deemed to apply also to the Joint Judge; and the seal of the Joint Judge shall be the same as is used by the District Judge.

[See note to s. 12.]

Enactments
applying to
District Judge
to apply to
Joint Judge.
Joint Judge's
Seal.

PART V.—*Assistant Judges.*

14. The Governor of Bombay in Council, under the general control of the Governor General of India in Council, may appoint one or more Assistants to the District Judge, and may suspend or remove from his appointment any Assistant so appointed.

[Printed as amended by Act XII of 1876. See note to s. 12.]

15. An Assistant Judge shall ordinarily hold his Court at the same place as the District Judge, but he may hold his Court elsewhere within the District, whenever the District Judge shall, with the previous sanction of the High Court, direct him so to do.

[See note to s. 12.]

16. The District Judge may refer to any Assistant Judge subordinate to him original suits of which the subject-matter does not amount to ten thousand rupees in amount or value, and miscellaneous applications not being of the nature of appeals.

Power to
appoint
Assistant
Judges.

Situation of
Assistant
Judge's Court.

Original juris-
diction of
Assistant
Judge.

The Assistant Judge shall have jurisdiction to try such suits and to dispose of such applications.

Where the Assistant Judge's decrees and orders in such cases are appealable, the appeal shall lie to the District Judge or to the High Court according as the amount or value of the subject-matter does not exceed or exceeds five thousand rupees.

[Printed as amended by Acts VII of 1889 and VIII of 1890.

See note to s. 12.

In a suit for a declaration of right of property and possession in a house under attachment the subject-matter is not the house but the attachment, the value of which is to be taken at the amount of the judgment debt for which the attachment is issued. *Motichand v. Dadabhai*, 11 B. H. C. R., 186.

A District Judge has no power under this section to refer to an Assistant Judge applications under special Act, like the Land Acquisition Act, for disposal. *The First Assistant Collector of Prant Bassein v. Ardesir*, I. L. R. 16 Bom. 277.]

Appellate jurisdiction of Assistant Judge.

17. The Governor of Bombay in Council may, by notification in the Government Gazette, empower any Assistant Judge to try such appeals from the decrees and orders of the subordinate Courts as would lie to the District Judge and as may be referred by him to the Assistant Judge.

Decrees and orders passed under this section by an Assistant Judge shall have the same force and shall be subject to the same rules as regards procedure and appeals as decrees and orders passed by the District Judge.

[See note to s. 12.]

An Assistant Judge acquires full jurisdiction to try an appeal referred to him by a District Judge, i. e., to fully hear and finally dispose of it according to the Code of Civil Procedure. Therefore, where the District Judge set aside an order of the Assistant Judge dismissing an appeal for default of appellant's appearance, and ordered the re-admission of the appeal, *held*, that such setting aside and re-admission were without jurisdiction. *Sakharam v. Govind*, I. L. R., 15 Bom., 107.]

Continuance of Assistant Judge's appellate jurisdiction.

18. A person filling the office of Assistant Judge, on whom the power of hearing appeals has once been conferred under section 17, shall continue to have this power so long and so often as he may fill the office of Assistant Judge, without reference to the District in which he may be employed; provided that the Governor of Bombay in Council may, by notification in the Government Gazette, at any time withdraw such power.

[See note to s. 12.]

Power to invest Assistant Judge with powers of District Judge.

19. The Governor of Bombay in Council may, by notification in the Government Gazette, invest an Assistant Judge with all or any of the powers of a District Judge within a particular part of a District, and may, by like notification, from time to time determine and alter the limits of such part.

The jurisdiction of an Assistant Judge so invested shall *pro tanto* exclude the jurisdiction of the District Judge from within the said limits.

Every Assistant Judge so invested shall ordinarily hold his Court at such place within the local limits of his jurisdiction as may be determined by the Governor of Bombay in Council, and may, with the previous sanction of the High Court, hold it at any other place within such limits.

[See note to s. 12.]

Where an Assistant Judge is invested with all the powers of a District Judge within any part of the district of such Judge, the Court of the Assistant Judge must be considered, equally with the Court of the District Judge, the Principal Civil Court of Original Jurisdiction, and a decree sent for execution in such part of the district is properly executed by, or under the direction of, such Assistant Judge. The functions of the Court

executing the decree are judicial, and not ministerial only. *Govind v. Shidram*, 7 B. H. C. R., A. C. J., 37.]

20. Every Assistant Judge shall use the seal of the District to whom he is Assistant. Assistant Judge to use seal of District Judge.
[See note to a. 12.]

PART VI.—Subordinate Judges.

21. There shall be in each District so many Civil Courts subordinate to the District Court as the Governor of Bombay in Council, acting under the general control of the Governor-General of India in Council, shall from time to time direct. Number of Subordinate Civil Courts.

22. The Judges of such Subordinate Courts shall be appointed by the Governor of Bombay in Council, and shall be called Subordinate Judges. Appointment of Subordinate Judges.

No person shall be appointed a Subordinate Judge unless he be a subject of the Queen who has practised five years as an Advocate of a High Court in India or as a Vakil in the High Court of Judicature in Bombay, or who has qualified for the duties of a Subordinate Judge according to such tests as may for the time being be prescribed by such High Court, or who has taken the degree of Bachelor of Laws in the University of Bombay.

The tests so prescribed by the High Court shall be notified in the Government Gazette.

[For these tests, see Ch. VIII. of Civil Circulars, pp. 394, &c., of the High Court Rule Book 1892.]

Rules made by the Governor in Council.

1. Any Bachelor of Laws of the Bombay University, or any person who has passed the Examination prescribed by the High Court for candidates for the office of Subordinate Judge, or any other person who has otherwise qualified under section 22 of Act XIV of 1869 for the duties of a Subordinate Judge, who is desirous of obtaining the post of Subordinate Judge, shall transmit to the Private Secretary to His Excellency the Governor, with his application, a satisfactory certificate that he is a subject of the Empress, showing his parentage, the place of his birth, and his exact age.

2. The certificate mentioned in the previous rule may be signed—

- (1) by the District Judge or the District Magistrate of the district of which the applicant is a native;
- or (2) by the Chief Judge of the Court of Small Causes, Bombay, or the Registrar of the High Court, Appellate Side, Bombay, if the applicant is a native of Bombay
- or (3) by the Chief Judicial or Executive Officer of a British District beyond the limits of the Bombay Presidency, if the applicant is a native of such district;
- or (4) by the Political Officer of the British Government in a Native State if the applicant, being proved to be a subject of the Empress, is temporarily residing in such State.

3. Such certificate must in all cases be countersigned by the Secretary to Government in the Judicial Department. 1892 G. G. 673.]

22A. The Governor of Bombay in Council may, by notification in the official Gazette, fix, and by a like notification, from time to time Power to fix local limits of jurisdiction of

Subordinate
Judges.

alter, the local limits of the ordinary jurisdiction of the Subordinate Judges.

[Added by Act IX of 1880.]

Situation of
Subordinate
Courts.

23 The Subordinate Judges shall hold their Courts at such place or places as the Governor of Bombay in Council may from time to time appoint within the local limits of their respective jurisdictions.

Wherever more than one such place is appointed, the District Judge shall, subject to the control of the High Court, fix the days on which the Subordinate Judge shall hold his Court at each of such places, and the Subordinate Judge shall cause such days to be duly notified throughout the local limits of his jurisdiction.

The same person may be the Judge of more than one Subordinate Court; and in such cases the District Judge shall, subject to the control of the High Court, prescribe rules for regulating the time during which the Subordinate Judge shall sit in each Court.

The Judge of any Subordinate Court may, with the previous sanction of the High Court, be deputed by the District Judge to the Court of another Subordinate Judge for the purpose of assisting him in the disposal of the suits on his file.

[See note to s. 12.]

The assistance to be given by a Subordinate Judge deputed under this section to assist another Sub-Judge can only be afforded within the limits of his jurisdiction as fixed by section 24, and cannot be invoked except in matters within his competence. A First Class Subordinate Judge cannot, therefore, transfer the execution of a decree in a suit the subject-matter of which is more than Rs. 5,000 to a Second Class Sub-Judge deputed to assist him. *Shri Siddheswar v. Shri Harihar*, I. L. R., 12 Bom., 155.]

Classes of
Subordinate
Judges.
Jurisdiction
of Subordinate
Judge of first
class.
Jurisdiction
of Subordinate
Judge of
second class.

24. The Subordinate Judges shall be of two classes.

The jurisdiction of a Subordinate Judge of the first class extends to all original suits and proceedings of a civil nature.

The jurisdiction of a Subordinate Judge of the second class extends to all original suits and proceedings of a civil nature wherein the subject-matter does not exceed in amount or value five thousand rupees.

[In suits either for a mere declaration of title to the rights of a deceased person or for such a declaration accompanied with a prayer for possession the subject-matter is the inheritance and the actual value of the estate claimed by the plaintiff and not what may eventually come to the plaintiff after paying debts and legacies is the value of the subject-matter. The valuation for the purposes of Court Fees is not to be accepted as a criterion of the valuation for the purposes of jurisdiction. *Bai Mahkor v. Bulakhi*, I. L. R., 1 Bom. 538. *Kalu v. Vishram*, ibid 543.]

If the subject matter of a suit was within the jurisdiction of a Second Class Sub-Judge, his jurisdiction would continue, whatever might be the result of the suit, in all such matters in the suit as, by the Civil Procedure Code, are brought within his cognisance, amongst which are matters in execution in that suit and the mere circumstance that the amount actually due under the decree by process of accumulation of interest, &c., exceeds Rs. 5,000 cannot oust him from the jurisdiction. *Shamray v. Nilaji*, I. L. R., 10 Bom. 200.]

25. A Subordinate Judge of the first class, in addition to his ordinary jurisdiction, shall exercise a special jurisdiction in respect of such suits and proceedings of a civil nature wherein the subject-matter exceeds five thousand rupees in amount or value as may arise within the local jurisdictions of the Courts in the District presided over by Subordinate Judges of the second class.

Special jurisdiction of Subordinate Judge of first class.

In Districts to which more than one Subordinate Judge of the first class have been appointed, the District Judge, subject to the orders of the High Court, shall assign to each the local limits within which his said special jurisdiction is to be exercised.

[What *prima facie* determines the jurisdiction of a Court is the claim or subject-matter of the claim, as estimated by the plaintiff and the determination having given the jurisdiction, the jurisdiction itself continues, whatever the event of the suit. And this is so, notwithstanding a *bona fide* error in the estimate made by the plaintiff. But the plaintiff cannot oust the Court of its jurisdiction by making unwarrantable additions to the claim which cannot be sustained and which there is no reasonable ground for expecting to sustain. The "subject-matter" of a claim within the meaning of this section is the specific thing sought by the plaintiff, and not what the suit is about in a wider and vague sense. In suit for injuring a carriage the subject-matter is the amount demanded. In a partition suit, where the plaintiff seeks for a division and separate possession of his share in joint property, it is the share claimed which is the subject-matter of the claim, and not the whole of the joint property which is sought to be divided. *Lakhsman v. Babaji*, I. L. R., 8 Bom., 31.]

26. In all suits decided by a Subordinate Judge of the first class in the exercise of his ordinary and special original jurisdiction of which the amount or value of the subject-matter exceeds five thousand rupees, the appeal from his decision shall be direct to the High Court.

Appeals from his decision.

[The responsibility of determining whether a subject-matter does or does not constitute a cause of action, and whether a claim is or is not properly valued rests, under the Civil Procedure Code, with the Court in which a suit is instituted; if then a Subordinate Judge of the First Class tries and determines a question of claim or right, and the amount or value of the subject-matter of the suit exceeds Rs. 5,000, an appeal lies direct to the High Court, although the Subordinate Judge may have wrongly held that a part of the claim constituted a cause of action, when in fact it did not; *e.g.*, where in a suit for partition originally valued under Rs. 5,000, the plaintiff subsequently includes other property raising the valuation to more than Rs. 5,000, but at the same time says he has parted with his interest therein. *Anandray v. Ramchandra*, 1874, P. J., 290.

The value of the subject-matter of a suit by the mortgagee to recover possession of the mortgaged land, is not the value of the mortgaged land, but that of the mortgagee's interest, which cannot be valued at a sum in excess of the mortgage-debt. If the value of the land exceeds the debt, the excess represents the mortgagor's interest, and cannot be taken into consideration for the purpose of s. 26 of Act XIV of 1869. *Balwantrav v. Malhare*, 1885, P. J., 222.]

27. The Governor of Bombay in Council may invest any Subordinate Judge of the first class with power to hear appeals from such decrees and orders of Subordinate Courts as may be referred to him by the Judge of the District.

Appellate jurisdiction of Subordinate Judge of first class.

Decrees and orders so passed in appeal by a Subordinate Judge of the first class shall have the same force as if passed by a District Judge.

The Governor of Bombay in Council may, whenever he thinks fit, withdraw such jurisdiction from any Subordinate Judge so invested.

Power to invest Subordinate Judge with small cause powers.

28. The Governor of Bombay in Council may invest, within such local limits as he shall from time to time appoint, any Subordinate Judge of the first class with the jurisdiction of a Judge of a Court of Small Causes, for the trial of suits cognizable by such Courts up to the amount of five hundred rupees, and any Subordinate Judge of the second class with the same jurisdiction up to the amount of fifty rupees.

The Governor of Bombay in Council may, whenever he thinks fit, withdraw such jurisdiction from any Subordinate Judge so invested.

[See Act XVII of 1879, s. 5.]

The Court of a Subordinate Judge, invested with the jurisdiction of a Court of Small Causes, does not thereby become a Court of Small Causes constituted under Act IX of 1887. The variations of procedure prescribed expressly for the Courts constituted under Act IX of 1887 are not, therefore, applicable to these Courts. These Courts come under the category of "other Courts exercising the jurisdiction of a Court of Small Causes" within the meaning of section 5 of the Civil Procedure Code, and, therefore, their procedure is governed by the Civil Procedure Code. *Bhagvan v. Balu*, I. L. R., 8 Bom., 230, 232, 233.

This section, although it does not, when jurisdiction is given under it, necessarily divide the Court into two separate Courts, still creates an additional and distinct jurisdiction. Section 33 of Act IX of 1887, however, distinctly provides that the Court is to be regarded as two Courts in such cases. *Pitamber v. Dhondu*, I. L. R., 12 Bom., 486.]

Seal of Subordinate Judge.

29. Each Subordinate Judge shall use a seal, one inch and a half in diameter, bearing the Royal Crown with the following inscription in English and the principal language of the district—"Subordinate Judge of

30, 31.—[Repealed by Act XII of 1876.]

Reference of Government-suits.

32. No Subordinate Judge or Court of Small Causes shall receive or register a suit in which the Government or any officer of Government in his official capacity is a party, but in every such case such Judge or Court shall refer the plaintiff to the District Judge, in whose Court alone (subject to the provisions of section nineteen) such suit shall be instituted.

Provided that nothing in this section shall be deemed to apply to any suit merely because—

(a) a municipal corporation constituted under Bombay Act No. VI of 1873, or any other enactment for the time being in force, is a party to such suit and an officer of Government is in his official capacity a member of such corporation; or,

(b) an officer of a Court appointed under the Code of Civil Procedure, section 456, last paragraph, is, in virtue of such appointment, a party to such suit.

[Printed as amended by Acts X of 1876, s. 15, XV of 1880 and XII of 1891.]

See note to s. 12.

In a suit brought in a Court of Small Causes, the Patils and Kulkarnis were joined as defendants in their official capacities. *Held*, that the Court of Small Causes had no juris-

diction to receive or register the suit," and, therefore, all proceedings taken therein were without jurisdiction, and the plaint should be returned to the plaintiff. *Kashinath v. Balvantrav*, 1890, P. J., 82.

A suit against a Collector to recover less than Rs. 500, wrongfully levied by him as assessment, is cognisable by a Court of Small Causes; District Judges should ordinarily try such suits when brought in the District Court, and should not delegate the trial to their assistants. *Ramchandra v. The Collector of Ratnagiri*, 10 B. H. C. R., 305.

A Municipality constituted under Bom. Act VI of 1873 by virtue of s. 7 consists of a number of commissioners, some of whom are officers of Government, and declared to be commissioners *ex officio*. In a suit by or against a Municipality, every individual commissioner must be regarded as a party within the meaning of s. 15 of Act X of 1876, and consequently such a suit cannot be entertained by a Subordinate Judge or a Court of Small Causes. I. L. R., 3 Bom., 146.

See the remarks of Westropp C. J. in *Jadow v. Chhagan*, I. L. R. 5 Bom. at p. 810.

S. 15 of Act X of 1876 removes suits in which the Collector is a party from the jurisdiction of the Small Cause Court; but the nature of the suit, *i. e.*, the jural relation between the parties remains the same. Therefore in such a case no second appeal lies. *Musa Miya v. Sayad Gulam Hussein*, I. L. R., 7 Bom., 100.

The defendant, a mamlatdar, was required to clear his character. He accordingly prosecuted the plaintiffs who, on appeal from the conviction by the Magistrate, were acquitted by the Sessions Judge. The plaintiffs brought this present suit to recover damages for malicious prosecution. Held, that it was in his individual, and not his official, capacity that the mamlatdar was sued, and that, therefore, the Subordinate Judge had jurisdiction. *Bankat v. Narayan*, I. L. R., 11 Bom., 370.

Official capacity.—If any particular class of interest is placed specifically under the tutelage of a Government officer with a direction to guard them by the appropriate legal proceedings, suits instituted in the fulfilment of the duty thus assigned are instituted in his official capacity. A Government officer prosecuting for an injury personal to himself is not generally acting in his official capacity. A prosecution by a functionary is official when, in carrying it on, he is discharging a duty expressly or impliedly assigned to him by law. If the duty of prosecuting in any particular case is not assigned to an officer as such, the consent or the order of his superior will not make the act an official one, which in its nature is not so, as lying outside his official functions. *Gopi v. Sheso*, I. L. R., 12 Bom., p. 358.

The Collector of Dharwar, who destroyed certificates of efficiency because they had not been issued to the plaintiff by the Mamlatdars in proper form, was held to have acted in his official capacity. *Snamirayacharya v. The Collector of Dharwar*, I. L. R., 15 Bom., 441.]

Removal or Suspension.

33. Whenever the High Court is of opinion that there are good grounds for making a formal and public enquiry into the truth of any imputation of misconduct by any Subordinate Judge, the High Court may appoint a Commissioner or Commissioners for the purpose of holding such an enquiry, and on the receipt of his or their report may order that the Subordinate Judge be removed or suspended from office, or reduced to a lower class.

Commission of enquiry into alleged misconduct.

The provisions of Act No. XXXVII of 1850 (*for regulating enquiries into the behaviour of public servants*) shall apply to enquiries under this section, the powers conferred by that Act on the Government being exercised by the High Court.

34. The High Court may suspend any Subordinate Judge from office pending the result of an enquiry into his behaviour under this section.

Suspension of Subordinate Judges by High Court, or District Judge.

Any District Judge may, whenever he sees urgent necessity for so doing, suspend from office any Subordinate Judge under his control. But whenever the District Judge suspends any such Subordinate Judge, he shall forthwith report the case for the orders of the High Court.

Saving of power of Government to suspend or dismiss.

Nothing in this section or in section 33 shall be held to interfere with the right of Government to suspend, or remove from office, any Subordinate Judge at their discretion.

PART VII.—*Temporary Vacancies.*

Temporary vacancy of office of District Judge.

35. In the event of the death of the District Judge or of his being prevented from performing his duties by illness or other casualty, or of his absence from his District on leave, the first in rank of the Assistant Judges in the District, or in the absence from the District of an Assistant Judge the first in rank of the Subordinate Judges, shall assume charge of the District Court without interruption to his ordinary jurisdiction, and while so in charge shall perform the duties of a District Judge with respect to the filing of suits and appeals, receiving pleadings, execution of processes, return of writs and the like, and shall be designated Assistant Judge or Subordinate Judge, as the case may be, in charge of the District, and shall continue in such charge until the office of District Judge may be resumed or assumed by an officer duly appointed thereto.

[See note to s. 12.]

Delegation of powers of District Judge.

36. Any District Judge leaving the Sadr station and proceeding on duty to any place within his District, may delegate to an Assistant Judge, or in the absence of an Assistant Judge to a Subordinate Judge at the Sadr station, the power of performing such of the duties enumerated in section 35 as may be emergent; and such officer shall be designated Assistant or Subordinate Judge, as the case may be, in charge of the Sadr station.

[See note to s. 12.]

Temporary vacancy of office of Subordinate Judge.

37. In the event of the death, suspension or temporary absence of any Subordinate Judge, the District Judge may empower the Judge of any Subordinate Court of the same District to perform the duties of the Judge of the vacated Subordinate Court, either at the place of such Court or of his own Court; but in every such case the Registers and Records of the two Courts shall be kept distinct.

[See note to s. 12.]

PART VIII.—*Ministerial Officers.*

Appointment, &c., of ministerial officers.

38. All ministerial officers of the Civil Courts in each District shall be appointed, and may be fined, suspended or dismissed, by the District Judge, subject to such rules as the High Court may from time to time prescribe;

Provided that the Judge of every Subordinate Court may, subject to the like rules, appoint the ministerial officers of such Court, whose salaries do not exceed rupees ten per mensem, and may by order fine, suspend or dismiss any ministerial officer of such Court who is guilty of any misconduct or neglect in the performance of the duties of his office.

Every such order shall be subject to appeal to the District Judge; and the rules for the time being applicable to appeals to the Court of Session from orders of the Criminal Courts subordinate thereto, shall apply to all appeals under this section.

Nothing in this section shall exempt the offender from any penal or other consequences to which he may be liable under any other law in force for the time being.

[As to these rules, see Civil Circular No. 140 at p. 382 of Rule Book 1892.]

39. The duties of the said ministerial officers shall be regulated by such rules as the High Court may from time to time prescribe.

Duties of ministerial officers.

[See Civil Circular No. 139 at p. 380 of the High Court Rule Book 1892.]

40. The Governor of Bombay in Council may, under the general control of the Governor-General of India in Council, appoint to any Civil Court under this Act a Clerk of the Court, who, in addition to such duties as may from time to time be prescribed by the High Court, may receive and register plaints, and shall refer such as he may consider should be refused for the orders of the Judge of the Court, and may sign all processes, and authenticate copies of papers.

Power to appoint Clerks of the Courts.

[Extended to Sind. 1884 G. G. 978. As to the additional duties prescribed, see Civil Circular No. 143 at p. 384 of the High Court Rule Book 1892.]

In the absence of the presiding Judge, otherwise than during an authorized vacation, a Court is open for purposes such as the presentation of plaints, which do not require his presence, for, by s. 48 of the Civil Procedure Code, read in conjunction with s. 40 of the Civil Courts Act, they could be accepted by the Clerk of the Court. *Shivram v. Bhavania*, 1888, P. J., 262.]

PART IX.—*Miscellaneous.*

41. The proceedings of each Civil Court shall be kept and recorded according to such rules as the High Court may from time to time prescribe. The High Court shall also lay down rules under which copies of papers may be granted.

Rules for keeping proceedings.

[As to copies, see Civil Circulars, Nos. 132 to 138, at p. 375 of the High Court Rule Book 1892.]

42. The High Court shall from time to time, with the sanction of the Governor of Bombay in Council, prescribe and regulate the fees to be taken for any process issued by any Court the constitution of which is declared by this Act, or by any officer of such Court.

Fees for process.

Tables of the fees so prescribed shall be published in the Government Gazette.

[For fees, see Civil Circulars Nos. 107, &c., at pp. 361, &c., of the High Court Rule Book 1892.]

Sittings of Courts.

43. The District and Subordinate Courts shall sit from day to day, except on Sundays, New Year's Day, Good Friday, Christmas Day, and Her Majesty's Birth-day, and such other days as may be sanctioned for each or every District by the High Court.

Vacation.

The High Court may also permit the Civil Courts under its control to adjourn for a period or periods not exceeding in the whole six weeks in each year.

[See note to s. 12. With regard to Holidays, see Civil Circular No. 155, p. 390, of the High Court Rule Book 1892.]

Schedule.—[Repealed by Act XIV of 1870.]

ACT No. V OF 1872.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

*(Received the assent of the Governor-General on the
28th March, 1872.)*

An Act to remove doubts as to the Jurisdiction of the High Court of Bombay over the Province of Sindh.

Preamble.

WHEREAS it is expedient to remove doubts which have arisen as to the jurisdiction of the High Court of Bombay over the Province of Sindh; It is hereby enacted as follows:—

Bar of jurisdiction in Sindh of Bombay High Court. Saving of Act II of 1874.

1. The High Court of Bombay has not, and shall be deemed never to have had, jurisdiction over the Province of Sindh.

2. Nothing herein contained shall be deemed to affect the Administrator General's Act, 1874.

[Added by Act XX of 1872, and amended by XII of 1891.]

Saving of probates and administrations.

3. Nothing herein contained shall be deemed to invalidate the grant of any probate or letters of administration heretofore or hereafter made by the High Court of Judicature at Bombay, or to affect the rights, powers or duties of any executor or administrator under, or by virtue of, any such probate or letters.

[Added by Act XX of 1872.]

Saving of High Court's criminal jurisdiction over European British subjects.

4. Nothing herein contained shall be deemed to affect the criminal jurisdiction of the said High Court so far as regards European British subjects of Her Majesty.

[Added by Act XX of 1872.]

ACT No. XX OF 1872.

PASSED BY THE GOVERNOR-GENERAL OF INDIA
IN COUNCIL.

(Received the assent of His Excellency the Governor-General on the
5th September, 1872.)

An Act to amend Act No. V of 1872.

WHEREAS it is expedient to amend Act No. V of 1872 (to remove Preamble.
doubts as to the Jurisdiction of the High Court of Bombay over the
Province of Sindh); It is hereby enacted as follows :—

1. The said Act shall be construed as if the following sections were added thereto :—

Section added
to Act V of
1872.

2, 3, 4.—[See Act V of 1872.]

THE BOMBAY REVENUE JURISDICTION ACT, 1876.

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Preamble.

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 6. Bar of certain suits against Revenue-officers.
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 15. Amendment of section 32, of Bombay Civil Courts Act.
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 17. Revival of Bombay Regulation XVII of 1827, section 13.
- SCHEDULE II. Districts referred to in section 5.

ACT No. X OF 1876.

PASSED BY THE GOVERNOR-GENERAL OF INDIA
IN COUNCIL.*(Received the assent of the Governor-General on the
28th March, 1876.)**An Act to limit the jurisdiction of the Civil Courts throughout
the Bombay Presidency in matters relating to the Land-
revenue, and for other purposes.***Preamble.**

WHEREAS in certain parts of the Presidency of Bombay, the jurisdiction of the Civil Courts in matters connected with the land-revenue is more extensive than it is in the rest of the said Presidency ;

And whereas it is expedient that the jurisdiction of all the Civil Courts in the said Presidency should be limited in manner herein-after appearing ;

And whereas it is also expedient to amend the Bombay Civil Courts Act, section 32, and to revive certain provisions of the thirteenth section of Regulation XVII of 1827 of the Bombay Code, which was repealed by the Land Improvement Act, 1871, ~~and to provide for the recovery by the Local Government of advances made for purposes other than those specified in section 3 of the Land Improvement Act, 1871 ;~~

It is hereby enacted as follows :—

Short title.

1. This Act may be called "The Bombay Revenue Jurisdiction Act, 1876 :"

**Commence-
ment.**

So much of section 4 as relates to claims to set aside, on the ground of irregularity, mistake or any other ground except fraud, sales for arrears of land-revenue, shall come into force on such day as the Governor-General in Council directs in that behalf by notification in the *Gazette of India*. The rest of this Act shall come into force on the passing thereof ;

Extent.

And it shall extend to all the territories for the time being under the government of the Governor of Bombay in Council, but not so as to affect—

(a) any suit regarding the assessment of revenue on land situate in the Collectorate of Bombay, or the collection of such revenue ;

(b) any of the provisions of Bombay Acts V of 1862 and VI of 1862, or of Act XXI of 1881, or of Act XXIII of 1871 ;

(c) any suit instituted before the passing of this Act.

[Printed as amended by Act XII of 1891.]

*The words
repealed by
Act II of 1894*

The notification referred to above was issued on 18th March 1881. 1881 G. G. 157.]

2. [Repealed by Act XII of 1894.] • •

3. In this Act, unless there be something repugnant in the subject or context,— Interpretation-clause.

“Land” includes the sites of villages, towns and cities ; it also “Land.” includes trees, growing crops and grass, fruit upon, and juice in, trees, rights-of-way, ferries, fisheries and all other benefits to arise out of land, and things attached to the earth, or permanently fastened to things attached to the earth :

“Land-revenue” means all sums and payments, in money or in kind, received or claimable by or on behalf of Government from any person on account of any land held by or vested in him, and any cess or rate authorized by Government under the provisions of any law for the time being in force : “Land-revenue.”

“Revenue-officer” means any officer employed in or about the business of the land-revenue, or of the surveys, assessment, accounts or records connected therewith. “Revenue-officer.”

[Water rate charged under section 48 of the Bombay Irrigation Act 1879, as it is made a charge on land, is within the definition of “land revenue” as given in this section. *Waman v. The Collector of Poona*, 1892 P. J., 21.]

4. Subject to the exceptions hereinafter appearing, no Civil Court shall exercise jurisdiction as to any of the following matters :— Bar of certain suits.

(a) claims against Government relating to any property appertaining to the office of any hereditary officer appointed or recognized under Bombay Act No. III of 1874, or any other law for the time being in force, or of any other village-officer or servant, or

claims to perform the duties of any such officer or servant, or in respect of any injury caused by exclusion from such office or service, or

suits to set aside or avoid any order under the same Act or any other law relating to the same subject for the time being in force passed by Government or any officer duly authorized in that behalf, or

claims against Government relating to lands held under treaty, or to lands granted or held as saranjám, or on other political tenure, or to lands declared by Government or any officer duly authorized in that behalf to be held for service ;

(b) objections—

to the amount or incidence of any assessment of land-revenue authorized by Government, or

to the mode of assessment, or to the principle on which such assessment is fixed, or

to the validity or effect of the notification of survey or settlement, or of any notification determining the period of settlement ;

(c) claims connected with or arising out of any proceedings for the realization of land-revenue or the rendering of assistance by Government or any officer duly authorized in that behalf to superior holders or occupants for the recovery of their dues from inferior holders or tenants ;

claims to set aside on account of irregularity, mistake or any other ground except fraud, sales for arrears of land-revenue ;

(d) claims against Government—

(1) to be entered in the revenue-survey or settlement-records or village-papers as liable for the land-revenue, or as superior holder, inferior holder, occupant or tenant, or

(2) to have any entry made in any record of a revenue-survey or settlement, or

(3) to have any such entry either omitted or amended ;

(e) the distribution of land or allotment of land-revenue on partition of any estate under Bombay Act IV of 1868, or any other law for the time being in force ;

(f) claims against Government—

to hold land wholly or partially free from payment of land-revenue, or

to receive payments charged on or payable out of the land-revenue, or to set aside any cess or rate authorized by Government under the provisions of any law for the time being in force, or

respecting the occupation of waste or vacant land belonging to Government ;

(g) claims regarding boundaries fixed under Bombay Act No. I of 1865, or any other law for the time being in force, or to set aside any order passed by a competent officer under any such law with regard to boundary-marks :

Provided.

Provided that if any person claim to hold land wholly or partially exempt from payment of land-revenue under—

(h) any enactment for the time being in force expressly creating an exemption not before existing in favour of an individual or of any class of persons, or expressly confirming such an exemption on the ground of its being shown in a public record, or of its having existed for a specified term of years, or

(i) an instrument or sanad given by or by order of the Governor of Bombay in Council under Bombay Act No. II of 1863, section 1, clause first, or Bombay Act No. VII of 1863, section 2, clause first, or

(j) any other written grant by the British Government expressly creating or confirming such exemption, or

(k) a judgment by a Court of law, or an adjudication duly passed by a competent officer under Bombay Regulation XVII of 1827, chapter X, or under Act No. XI of 1852, which declares the particular property in dispute to be exempt ;

such claim shall be cognizable in the Civil Courts.

Illustrations to (h).

(1) It is enacted that, in the event of the proprietary right in lands, the property of Government, being transferred to individuals, they shall be permitted to hold the lands for ever at the assessment at which they are transferred. The proprietary right in certain lands is transferred to A at an assessment of Rs. 100. An exemption from higher assessment not before existing is expressly created in favour of A by enactment, and he may seek relief in the Civil Court against over-assessment.

(2) It is enacted that when a specific limit to assessment has been established and preserved, the assessment shall not exceed such specific limit. A is the owner of land worth Rs. 100 for assessment. He claims to be assessed at Rs. 50 only on the strength of a course of dealing with him and his predecessors under which his land has not been more highly assessed. There is no exemption not before existing created by enactment, and A's claim is not cognizable in a Civil Court.

(3) It is enacted that land-revenue shall not be leviable from any land held and entered in the land-registers as exempt. A claims to hold certain land as exempt on the ground that it has been so held by him, and is so entered in the land-register. This is an exemption expressly confirmed by enactment on the ground of its being shown in a public record, and A's claim is cognizable in a Civil Court.

(4) It is enacted that the Collector shall confirm existing exemptions of all lands shown in certain maps to be exempt. A claims exemption alleging that his land is shown in the maps to be exempt. A's claim is cognizable in a Civil Court.

(5) It is enacted that assessment shall be fixed with reference to certain considerations, and not with reference to others. This is not an enactment creating an exemption in favour of any individual or class, and no objection to an assessment under such an enactment is cognizable in a Civil Court.

[This section does not bar a suit brought to establish a share in the emoluments of a *vatan* which has ceased to be a service *vatan*. *Moheyodin v. Chhotibibi*, I. L. R., 5 Bom. 578.

A suit for a declaration that an order of forfeiture under s. 153 of the Bombay Land-Revenue Code passed after an attachment issued under s. 159 of the same Code was illegal, is not barred by this clause, as the order of forfeiture is not a proceeding for the realization of land-revenue. *Samaldas v. The Secretary of State for India*, I. L. R., 16 Bom., 455.

Plaintiff sued to recover from the defendant money illegally levied by him as a tax in respect of cocoanut trees tapped by the plaintiff. Held that neither Act X of 1876, s. 4, nor Bombay Act V of 1879 took away the jurisdiction of the civil Courts. The former applies only to "land-revenue," whereas the present suit is in respect of Abkari revenue, which is always regarded as distinct from land-revenue. If the tax is not land-revenue, s. 4 of Act X of 1876 has no application. If it is land-revenue, the case falls within the exception created by s. 5 (c). See also Bombay Act V of 1879, s. 87, last clause. S. 29 of Bombay Act V of 1878 clearly contemplates such suits.

"The expression 'land-revenue,' as used in that Act" (Act X of 1876) "does not include either the duties leviable, under Regulation XXI of 1827, on the manufacture of spirits, or the taxes on the tapping of toddy trees, the levy of which in certain districts was legalized by s. 24 of the Bombay Abkari Act V, 1878." *Narayan v. Sukharam*, I. L. R., 9 Bom., 462

A suit in a Civil Court against Government to recover possession of *inam* lands together with arrears of the *amals* is barred both under s. 4 of Act XIII of 1871 and under s. 4 of Act X of 1876. It was barred under Regulation XXIX of 1827. And these Acts, though not retrospective, do not create rights against Government where none subsisted before. *Shivaram v. The Secretary of State for India*, I. L. R., 11 Bom., 222.

The bar provided in this section is not limited to suits against Government. *Nare v. Mahadev*, I. L. R., 12 Bom., 614.

See *Janardanray v. The Secretary of State for India*, I. L. R., 13 Bom., 445, where certain resolutions were held to be "an adjudication" by "competent" officers. The Governor in Council, upon whom judicial powers are conferred by Act XI of 1852, is such a competent officer.

See *Vasudeo v. Ramchandra*. I. L. R. 6 Bom. 129.

See sec 1 and note.]

Saving of certain suits.

5. Nothing in section 4 shall be held to prevent the Civil Courts from entertaining the following suits:—

(a) suits against Government to contest the amount claimed, or paid under protest, or recovered, as land-revenue on the ground that such amount is in excess of the amount authorized in that behalf by Government, or that such amount had, previous to such claim, payment, or recovery, been satisfied, in whole or in part, or that the plaintiff, or the person whom he represents, is not the person liable for such amount;

(b) suits between private parties for the purpose of establishing any private right, although it may be affected by any entry in any record of a revenue-survey or settlement or in any village-papers;

(c) suits between superior holders or occupants and inferior holders or tenants regarding the dues claimed or recovered from the latter;

and nothing in section 4, clause (g), shall be held to prevent the Civil Courts from entertaining suits, other than suits against Government, for possession of any land being a whole survey-number or a recognized share of a survey-number;

and nothing in section 4 shall be held to prevent the civil Courts in the districts mentioned in the second schedule hereto annexed from exercising such jurisdiction as, according to the terms of any law in force on the twenty-eighth day of March, 1876, they could have exercised over claims against Government—

(a) relating to any property appertaining to the office of any hereditary officer appointed or recognized under Bombay Act No. III of 1874, or any other law for time being in force, or of any other village-officer or servant :

(b) to hold land wholly or partially free from payment of land-revenue :

(c) to receive payments charged on, or payable out of, the land-revenue.

[Printed as amended by Act XVI of 1877.

A suit between private parties relating to Inam land for the purpose of establishing private right falls within this clause. *Mootoo v. Trivenibai*, 1881. P. J., 194.]

6. Revenue-officers shall not be liable to be sued for damages in any Civil Court for any act *bona fide* done, or ordered to be done, by them as such in pursuance of the provisions of any law for the time being in force. Bar of certain suit against Revenue-officers.

If any Revenue-officer absconds or does not attend when called on by his official superior, and if the Collector of the District proceeds against him or his sureties for public money, papers or property according to the provisions of any law for the time being in force, such Collector shall not be liable to pay damages or costs in any suit brought against him by such officer or sureties, although it appears that a part only, or no part whatever, of the sum demanded was due from the officer so absconding or failing to attend, or that he was not in possession of the papers or property demanded of him.

7. Nothing in any law for the time being in force which authorizes the punishment departmentally of any Revenue-officer for any offence or breach of duty, or which sanctions his prosecution criminally for such offence or breach, shall be held to bar any remedy which may be had in the Civil Court against such officer. Punishment or prosecution of Revenue-officers not a bar to civil remedies.

8, 9, & 10.—[Repealed by Act XV of 1880.]

11. No Civil Court shall entertain any suit against Government on account of any act or omission of any Revenue-officer unless the plaintiff first proves that, previously to bringing his suit, he has presented all such appeals allowed by the law for the time being in force, as within the period of limitation allowed for bringing such suit, it was possible to present. Suits not to be entertained unless plaintiff has exhausted right of appeal.

[After plaintiff had obtained a decree declaring that Government had no right to enhance the land-revenue on his village, the Collector, pending an appeal from such decree, took steps to levy the enhanced attachment. Held that the plaintiff was not barred by this section from bringing an independent action to obtain an injunction against the Collector, although he could have moved either the Court which passed the decree or the appellate Court for that purpose. Even assuming that an application to the Revenue Commissioner to set aside the Collector's order would be an "appeal allowed by law" within this section in the present case, looking to cl. 4 of sect. 1 of Reg. V of 1880, that officer could not have interfered as the claim to exemption from enhanced assessment was the subject of judicial investigation. *Government of Bombay v. Bhimbhai*, 1879, P. J., 351.]

Power of Government to refer questions for the decision of the High Court.

12. If in the trial or investigation of any suit, claim or objection, which, but for the passing of this Act, might have been tried or investigated by a Civil Court, there arises any question on which the Governor-General in Council or the Local Government desires to have the decision of the High Court, the Governor-General in Council or the Local Government, as the case may be, may cause a statement of the question to be prepared, and may refer such question for the decision of the High Court of Judicature at Bombay.

The said High Court shall fix an early day for the hearing of the question referred, and cause notice of such day to be placed in the Court-house.

The parties to the case may appear and be heard in the High Court in person or by their advocates or pleaders.

The High Court, when it has heard and considered the case, shall send a copy of its decision, with the reasons therefor, under the seal of the Court, to the Government by which the reference was made, and subject to any appeal which may be presented to Her Majesty in Council, the case shall be disposed of conformably to such decision.

If the High Court considers that any such statement is imperfectly framed, the High Court may return it for amendment.

The costs (if any) consequent on any such reference shall be dealt with as the High Court, in each case directs.

Power of Civil Judge to refer questions of jurisdiction to High Court.

13. If in any suit instituted, or in any appeal presented, in a Civil Court, the Judge doubts whether he is precluded by this Act from taking cognizance of the suit or appeal, he may refer the matter to the High Court.

The High Court may order the Judge making the reference either to proceed with the case or to return the plaint.

The order of the High Court on any such reference shall be subject to appeal to Her Majesty in Council, and save as aforesaid, shall be final.

Composition of Bench.

14. Every reference under section twelve or section thirteen shall be heard by a Bench consisting of such number of Judges, not less than three, as the Chief Justice from time to time directs.

Amendment of section 32 of Bombay Civil Courts Act.

15. For section 32 of the Bombay Civil Courts Act, No. XIV of 1869, the following shall be substituted (namely):

[Inserted in its proper place.]

Privileges of Government in suits in which it is concerned.

16. Whenever any suit is brought in any District Court against Government,

or against any Revenue-officer, and the Local Government undertakes the defence thereof,

it shall be lawful for the Local Government, by certificate signed by a Secretary thereto, to require—

(a) that such suit shall be tried by the District Judge himself, and shall not be transferred for trial to an Assistant Judge ; and

(b) that the trial of any such suit shall have precedence over the trial of any other suit or other civil proceedings then pending in such Court ;

and the Court shall give effect to every such requirement.

The privilege conferred on the Local Government by the clause (b) of this section shall, *mutatis mutandis*, apply to any appeal or special appeal against any decree in any such suit as is described in this section.

17. Notwithstanding any repeal effected by the Land Improvement Act, 1871, arrears of land-revenue of former years shall be recoverable by the Collector in the same way as current land-revenue, except that the preference given to demands for current land-revenue, as specified in section 5 of Bombay Regulation XVII of 1827, shall not extend to demands on account of the arrears for former years.

Revival of
Bombay Re-
gulation
XVII of 1827,
section 18.

[S. 17 is repealed by Act XV of 1880, s. 2, but the above printed clause is kept in force in the Scheduled Districts until the extension to them of Bombay Land Revenue Code, 1879. Act XV also provides that the repeal of the second clause of this section shall not be deemed to render invalid or illegal anything made valid or legal by such clause.]

THE FIRST SCHEDULE.

[Repealed by Act XII of 1891.]

(See Section 2.)

THE SECOND SCHEDULE.

[Added by Act XVI of 1877.]

The district of Ahmadábád.

The district of Kaira, exclusive of the Panch Maháls.

The district of Broach.

The district of Surat, exclusive of the lapsed State of Mandvi, as described in the schedule annexed to Act X of 1848.

The district of Tanna.

The district of Kolába, exclusive of the lapsed State of Kolába mentioned in Act VIII of 1853.

The district of Ratnágiri.

The district of Kanara.

ACT No. XV OF 1876.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN
COUNCIL.*(Received the assent of the Governor General on the 14th
September, 1876.)**An Act to amend the law relating to the transfer of Bombay
Municipal Debentures, and to provide for their consolida-
tion.***Preamble.**

WHEREAS, under the Bombay Municipal Act of 1865, the Justices of the Peace for the City of Bombay were empowered to mortgage for the purposes therein mentioned the rates and taxes imposed and levied under that Act.

And whereas, by section 255 of the same Act, it was enacted that any person entitled to any such mortgage might transfer his right and interest therein to any other person, and that every such transfer should be by deed duly stamped, wherein the consideration should be truly stated, and that every such transfer might be according to the form in schedule K to the said Act annexed or to the like effect :

And whereas, in exercise of the said power, divers mortgages of the said rates and taxes have been made, and the mortgagees have purported to transfer their mortgages to other persons, but such transfers have been by simple indorsement and not by deed duly stamped :

And whereas it is expedient to provide that such transfers may hereafter be made by indorsement, and to confirm the said transfers heretofore made, and to exempt the parties thereto from the penalties which they have incurred by reason of their failure to comply with the provisions of the said section and of the law relating to stamp-duties for the time being in force :

And whereas it is also expedient to provide for consolidating such mortgages in manner hereinafter mentioned and for renewing and subdividing mortgages so consolidated ;

It is hereby enacted as follows :

Short title.

1. This Act may be called "The Bombay Municipal Debentures Act, 1876."

**Transfers of
Bombay mu-
nicipal deb-
entures to be by
indorsement.**

2. Every mortgage of rates and taxes, authorized to be made under the said Bombay Municipal Act of 1865, or any subsequent Act, shall be transferable by indorsement on the instrument of mortgage.

[Printed as amended by Act I of 1879, Sch. III.]

**Validation of
former trans-
fers by in-
dorsement.**

3. Every transfer of any such mortgage heretofore made by indorsement shall be, and be deemed to have been, as valid as if this Act had been in force at the date of such transfer ; and no stamp-duty shall be, or be deemed to have been, chargeable in respect of any

such transfer; and no penalty shall be deemed to have been incurred by reason of any failure to comply with the provisions of the said section 255 or of the law relating to stamp-duties for the time being in force.

4. Any holder of two or more such instruments of mortgage may surrender them to the Municipal Corporation of the City of Bombay, and such Corporation shall accept the same, and shall (on receipt for each such instrument of such fee as the said Corporation may from time to time prescribe) grant to such holder, under the seal of the said Corporation, an instrument of mortgage in which the consideration stated shall be the aggregate amount of the considerations respectively stated in the instrument so surrendered. Power to consolidate such debentures.

Every instrument so granted may be in the form in the schedule hereto annexed or to the like effect.

5. The said Corporation shall, on the application of the holder of any instrument granted under the said Bombay Municipal Act of 1865 or under this Act, and on receipt of such fees as the said Corporation may from time to time prescribe in this behalf, renew or subdivide the same. Power to renew and subdivide.

THE SCHEDULE ABOVE REFERRED TO.

Whereas *A B* of _____ has surrendered to us, the Municipal Corporation of the City of Bombay, _____ mortgages issued under the Bombay Municipal Act of 1865, bearing respectively the following numbers and dates (namely) [*set them out*] and securing sums amounting in the whole to Rs. _____

In consideration of the premises, we, the said Corporation, do hereby grant and assign unto the said *A B*, his representatives and assigns, such proportion of the rates and taxes comprised in the said mortgages as, the said sum of Rs. _____

bears to the whole sum for the time being borrowed upon the credit of the said rates and taxes. To HOLD to the said *A B*, his representatives and assigns, from this day, until the said sum of Rs. _____ with interest at the rate of _____ per cent. per annum shall be fully paid and satisfied,

Given under our corporate seal this _____ day of _____ 187 .

ACT No. XX OF 1876.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 16th December, 1876.)

An Act to give better effect to certain agreements with the Thákur of Bhaunagar.

WHEREAS the villages mentioned in the Schedule hereto annexed Preamble.
(hereinafter called the Scheduled villages) are the property of the

Thákur of Bhaunagar, and were by the Treaty of Bassein, dated the thirty-first day of December 1802, separated from the Native State or States known as the territory of Káthiáwár and ceded to the British Government :

And whereas, by Regulation VI of 1816 of the Governor of Bombay in Council, the Regulations in force throughout the Presidency of Bombay were extended to the said villages, and such villages thereby became subject to the jurisdiction of the Revenue, Civil and Criminal Courts established in that Presidency :

And whereas the said Thákur of Bhaunagar is also the proprietor of divers villages, forming part of the said territory, and hereinafter called the Káthiáwár villages :

And whereas the British Government have exercised certain powers of government over the said territory, but such territory has never been treated as being British territory, nor as having been vested in the East India Company, nor in Her Majesty the Queen of Great Britain and Ireland and Empress of India, and the said Káthiáwár villages have consequently never been subject to the laws in force in the Presidency of Bombay :

And whereas in the year 1820 the British Government established a Political Agency for the said territory of Káthiáwár :

And whereas in the year 1857 the said Thákur was, by an order of the British Government, invested in respect of the same villages with certain powers of sovereignty limited by and subject to the rules laid down for the government and conduct of the said Káthiáwár Political Agency :

And whereas for divers reasons of State affecting the welfare of British India, the British Government became desirous of ceding to the Thákur of Bhaunagar the Scheduled villages, to be held by him on the same conditions as those on which he holds the Káthiáwár villages, and for that purpose certain agreements were made and certain notifications published which were intended to operate as a cession of the Scheduled villages :

And whereas on the twenty-ninth day of January 1866, the Governor of Bombay in Council published a notification declaring that, in accordance with the agreement last hereinbefore recited, the Scheduled villages were from and after the first day of February 1866 removed from the jurisdiction of the Revenue, Civil and Criminal Courts of the Bombay Presidency and transferred to the supervision of the said Political Agency in Káthiáwár on the same conditions as to jurisdiction as the said Káthiáwár villages :

And whereas the intention of the said agreements and notifications was that the villages comprised therein should be ceded to and

vested in the Thákur of Bhaunagar, to be held by him on the terms on which he holds the Káthiáwár villages :

And whereas ever since the first day of February 1866, the Scheduled villages have been governed according to the intention of the said agreements, and acts of executive authority have been done, proceedings taken and decrees and sentences passed by the Thákur of Bhaunagar and his officers, and by the officers of the said Political Agency, and by the Courts of Justice appointed to exercise jurisdiction within the limits of the said Political Agency :

And whereas it now appears that such agreements and notifications were not worded so as to express their true intention, and that the Scheduled villages did not thereby cease to be British territory, or to be subject to the laws in force in the Presidency of Bombay :

And whereas by a notification dated the fifth day of December 1876, after reciting to the effect above recited, and reciting that the Secretary of State for India had on behalf of Her Majesty the Queen of Great Britain and Empress of India, given his sanction to the cession intended to be thereby effected, the Governor General in Council, with the sanction aforesaid, did thereby cede and grant to the said Thákur of Bhaunagar, his heirs and successors, the said Scheduled villages, to hold the same unto the said Thákur, his heirs and successors, on the terms and subject to the rules on and subject to which he holds the said Káthiáwár villages : but it was thereby provided that, in case the said Thákur, his heirs or successors should commit any acts of misgovernment which, in the opinion of the Governor General in Council, rendered it inexpedient that the said Thákur, his heirs and successors should continue to hold the said Scheduled villages, the Governor General in Council might resume the villages thereby ceded and reannex the same to Her Majesty's dominions :

And whereas it is expedient (so far as relates to any past or future proceedings in British India) to ratify the aforesaid acts, proceedings and sentences of the Thákur of Bhaunagar and the officers and Courts aforesaid, and to indemnify the said Thákur and officers against any liability in respect thereof, and to provide that no title to property shall be disturbed by any act, proceeding or sentence of any other authority ; It is hereby enacted as follows :—

1. This Act may be called “The Bhaunagar Act, 1876.”

It extends only to British India ;

And it shall come into force at once.

2. The said Scheduled villages shall be deemed to have been, on and after the said first day of February 1866, excluded from the jurisdiction of the Revenue, Civil and Criminal Courts of the Bombay Presidency.

Short title.

Local extent.
Commence-
ment.

Scheduled
villages ex-
cluded from
jurisdiction of
Bombay
Courts.

Validation of
acts done
after 1st Feb-
ruary 1866.

3. All acts of executive authority, proceedings, decrees and sentences which have been done, taken or passed subsequently to the first day of February 1866, and which would have been valid if the Scheduled villages had been ceded according to the intention of the said agreements and notification, shall be as valid and operative in British India as if such cession had actually been effected; and no suit or other proceeding shall be maintained or continued against any person whatever on the ground that the Scheduled villages did not cease to be British territory on the first day of February 1866.

Bar of Suits.

Saving of
personal juris-
diction of
Courts of
British India.

4. Nothing in this Act shall affect any jurisdiction which any Court of Justice in British India may for the time being be entitled to exercise over persons resident or being beyond the limits of British India.

SCHEDULE.

Bhaunagar Taluqa.

Bhaunagar.	Málanka.	Háthab.
Wadwá.	Bhutesar.	Khadsuliu.
Ruhá.	Bhumli.	Bhadbadiu.
Akwará.	Ratanpur Juná.	Alápur.
Adhiwára.	Ratanpur Nuwá.	Thalsar.
Tarsamía.	Koliak.	Lákhanka.
Jaspará.	Kobri.	Sultánpur.
Phulsar.	Bhuri.	Wávri.
Karmadiu.	Bhundariu.	Rámpura.
Surká.	Churi.	Bhenswari
Tarak Pálri.	Sánkrásar.	Jhánjrá } (waste).
Nári.	Bhádoles.	
Budhel.	Nágdhaniba.	

Sihór Taluqa.

Sihór.	Ratanpur near Táná.	Rájpura.
Usrad.	Wadiu.	Khakhriu.
Agiáli.	Waláwad.	Kardej.
Táná.	Megwadar.	Surká.
Bordi.	Ghángli.	Jámálu.
Kájáwadar.	Nesra.	Kuchotiu (waste).

Chirora (waste).

New Villages.

Gundi.	Trápaj.	Pithalpur.
Mándwá.	Bapará.	Khántari.

Sosiá.	Páncpíplá.	Deogána.
Paniáli.	Rájpura.)	Thordi.
	Khadarpur Mitiverdi.	

Inám Villages.

Wartej.	Sámpura.	Sodwadra.
Sidhsar.	Phariádku.	Sedhawadar.
	Kálvi (waste).	

DHANDUKA PARGANA.*Pátua Taluqa.*

Pátua.	Kánutalao.	Dantretia.
Bharbir.	Ratanwau.	Samandiála.
Chakampur.	Keriá.	Kariáni.
Sarwui.	Jamrála.	Láthidhar.
Jhinjhawadan	Ujalwau.	Weláwadar.
Páti.	Jotingra.	Virdhi or Rájghar.
Keria near Páti.	Shirthali.	Sajeli.
Bhámbhan.	Dhikwáli.	Oteríá.
Samandeála, 2.	Wajeli.	Sándherá.
Tájpur.	Lundrá.	Nágalpur.
	Málpur.	

RANPUR PARGANA.*Botad Taluqa.*

Botád.	Dánkniá.	Kániád.
Hardar.	Khankoi.	Rájpura.
Sírwániá.	Turkhá.	Juriá.

ACT No. XIV OF 1877.**PASSED BY THE GOVERNOR GENERAL OF INDIA
IN COUNCIL.**

(Received the assent of the Governor General on the 28th June, 1877.)
**An Act to relieve from incumbrances the estates of Thákurs in
 Broach and Kaira.**

[The whole of this Act, except the last three sections, is repealed by Act XXI of 1881
 s. 2.]

39. **And** whereas doubts have been raised as to the validity of Bombay Act No. VI of 1862, (for the amelioration of the condition of taluqdárs in the Ahmadabad Collectorate, and for their relief from debt) so far as it purports to affect the High Court of Judicature at Bombay, for the purpose of precluding such doubts, it is hereby fur-

Amendment
of Bombay
Act VI of
1862.

*The two words
are repealed
by Act III
1877.*

ther enacted that the said Act, so far as it purports to affect the said High Court, shall be deemed to be and to have been valid.

Taluqdári
Settlement-
officer to be—

40. The taluqdári Settlement-officer mentioned in the Broach and Kaira Incumbered Estates Act 1881, section seven, for the time being shall, unless the Local Government in any case otherwise directs, be—

deemed officer
under Bombay
Act VI of 1862,
section 1;

(a) deemed to be an officer appointed under section 1 of the said Bombay Act No. VI of 1862, to manage all estates with respect to which a declaration is or has been made and published under the said section;

assistant to
certain Col-
lectors.

(b) an assistant to the respective Collectors of Ahmadábád, Kaira and Broach.

[Printed as amended by Act XXI of 1881, s. 2.]

Acts of
taluqdári
Settlement-
officer valid.

41. Nothing heretofore done by any taluqdári Settlement-officer shall be deemed to be or to have been invalid by reason only of his not having been duly appointed,*

(a) under section 1 of the said Bombay Act No. VI of 1862, to manage any estates with respect to which a declaration has been made under the said section, or

(b) to be a manager under the said Act No. XV of 1871, or

(c) to be an assistant to the respective Collectors of Ahmadábád Kaira and Broach.

ACT No. XVI OF 1877.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 9th August, 1877.)
An Act to amend the Bombay Revenue Jurisdiction Act, 1876.

Preamble,

WHEREAS it is expedient to exempt from the operation of the fourth section of the Bombay Revenue Jurisdiction Act, 1876, certain suits instituted in the districts mentioned in the schedule hereto annexed; It is hereby enacted as follows:—

Addition to
section 5, Act
X of 1876.

1. To section 5 of the said Act the following clause shall be added (namely)—

[See Sect. 5 Act X of 1876.]

Schedule
added to Act
X of 1876.

2. The following schedule shall be added to the said Bombay Revenue Jurisdiction Act, 1876 (namely)—

[See Act X of 1876.]

ACT No. XVI OF 1879.

PASSED BY THE GOVERNOR GENERAL OF INDIA
IN COUNCIL.*(Received the Governor General's assent on the 30th of September,
1879.)**An Act to restrict the transport of Salt by Sea.*

WHEREAS it is expedient to restrict the transport of salt by Preamble.
sea in manner hereinafter appearing ; It is hereby enacted as follows :—

1. This Act may be called "The Transport of Salt Act, 1879." Short title.

It extends to the western coast of British India, north of Cochin Local extent.
and to the sea within a distance of a marine league from such coast ;
and it shall come into force at once.

2. When any salt is carried by sea in any vessel other than a Commence-
ment.
vessel of the burden of three hundred tons and upwards, the owner Penalties for
carrying salt
in certain
vessels.
and master of such vessel shall each be punished with fine which may
extend to one thousand rupees, or with imprisonment for a term
which may extend to six months, or with both.

3. Nothing in section two applies to

Exceptions.

(a) salt covered by a permit granted under Chapter V of the
Madras Salt Act, 1889, or Chapter V of the Bombay Salt Act, 1890,
or the corresponding law for the time being in force in the territories
administered by the Governor of Fort St. George in Council or the
Governor of Bombay in Council, as the case may be.

(b) salt covered by a pass granted by any officer whom the Go-
vernor of Bombay in Council may appoint in this behalf ;

(c) such amount of salt carried on board any vessel for consump-
tion by her crew or by the passengers or animals (if any) on board as
the Governor of Bombay in Council may, from time to time, exempt
from the operation of section two.

[Printed as amended by Act XII of 1891 Sch. II.]

4. When any officer empowered by the Governor of Bombay in Power of
stoppage,
search and
arrest.
Council, whether by name or office, to act under this section has rea-
son to believe, from personal knowledge or from information taken
down in writing, that any salt is being carried, or has within the twen-
ty-four hours next before the requirement first hereinafter mentioned
been carried, in any vessel so as to render the owner or master of
such vessel liable to the penalties prescribed by section two, he may
require such vessel to be brought to, and thereupon may

(a) enter and search the same ;

(b) require the master of such vessel to produce any documents
in his possession relating to such vessel or the cargo thereof ;

(c) seize such vessel if the said officer has reason to believe it

liable to confiscation under this Act, and cause it to be brought with its crew and cargo into any port in British India; and

(d) where salt is found on board such vessel, search and arrest without a warrant any person on board the same who such officer has reason to believe is punishable under section two.

Penalties for
resisting
officer.

5. Any master of a vessel refusing or neglecting to bring to or to produce his papers when required to do so by an officer acting under section four,

and any person obstructing any such officer in the performance of his duty, may be arrested by such officer without a warrant, and shall be punished with fine which may extend to one thousand rupees, or with imprisonment for a term which may extend to six months, or with both.

Confiscation
of vessel and
cargo.

6. Every vessel in which salt is carried so as to render the owner or master of such vessel liable to the penalties prescribed by section two, the cargo on board such vessel and all salt in respect of which an offence under this Act has been committed shall be liable to confiscation.

The confiscation of any vessel under this section shall include her tackle, apparel and furniture.

Confiscations under this section may be adjudged by the Chief Customs Authority, or by such other officer as the Local Government may, from time to time, appoint in this behalf.

Whenever any Customs-officer is satisfied that any article is liable to confiscation under this section, he may seize such article, and shall at once report the seizure to his superior officer for the information of the Chief Customs Authority or such other officer as aforesaid, and such authority or officer may, if satisfied on such report, or after making such enquiry as it or he thinks fit, that the article so seized is liable to confiscation, either declare it to be confiscated or impose a fine in lieu thereof not exceeding the value of the article.

Jurisdiction.

7. For the purpose of the adjudication of penalties under section two or section five, every offence thereunder may be deemed to have been committed within the limits of the jurisdiction of the Magistrate of any place where the offender is found, or to which, if arrested under section four or section five, he may be brought.

Power to
exempt from
operation of
Act.

8. The Governor General in Council may from time to time, by notification in the *Gazette of India*, exempt the carriage of salt within any local limits or in any class of vessels from the operation of this Act, and, by like notification, again subject such carriage to the operation of this Act.

THE DEKKHAN AGRICULTURISTS' RELIEF ACT, 1879.

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ACT No. XVII OF 1879.

PASSED BY THE GOVERNOR GENERAL OF INDIA
IN COUNCIL.

(Received the assent of the Governor General on the 29th
October, 1879.)

*An Act for the Relief of Indebted Agriculturists in certain
parts of the Dekkhan.*

Preamble.

WHEREAS it is expedient to relieve the agricultural classes in certain parts of the Dekkhan from indebtedness; It is hereby enacted as follows :—

[Although the main object of the Act is no doubt to relieve the agricultural classes, the special provisions of section 3 clause (b), with clauses (w) & (x), as distinguished from clauses (y) & (z) clearly extend the relief given to all classes under certain conditions. *Ganesh v. Krishnaji*. I. L. R., 14 Bom. 387.]

CHAPTER I.—PRELIMINARY.

Short title.

1. This Act may be cited as "The Dekkhan Agriculturists' Relief Act, 1879."

Commence-
ment.
Local extent.

and it shall come into force on the first day of November, 1879.

Sections eleven, fifty-six, sixty and sixty-two extend to the whole of British India. The rest of this Act extends only to the districts of Puna, Satara, Sholapur and Ahmadnagar, but may, from time to time, be extended wholly or in part by the Local Government, with the previous sanction of the Governor General in Council, to any other district or districts in the Presidency of Bombay.

[Printed as amended by Act XXIII of 1886.]

2. In construing this Act, unless there is something repugnant in the subject or context, the following rules shall be observed, namely :—

1st.—‘Agriculturist’ shall be taken to mean a person who by himself, his servants or tenants earns his livelihood wholly or principally by agriculture carried on within the limits of the said districts, or who ordinarily engages personally in agricultural labour within those limits.

Explanations.—(a) An agriculturist who, without any intention of changing his status as such, temporarily ceases to earn his livelihood or to engage personally in agricultural labour as aforesaid does not thereby cease to be an agriculturist within this definition.

(b) An assignee of Government assessment or a mortgagee is not as such an agriculturist within this definition.

2nd.—In Chapters II, III, IV and VI, and in section sixty-nine, the term ‘agriculturist,’ when used with reference to any suit or proceeding, shall be deemed to include also a person who, when any liability incurred by him and forming the subject or part of the subject of that suit or proceeding was so incurred, was an agriculturist as defined in the first rule.

3rd.—An agriculturist shall be deemed to reside where he earns his livelihood or personally engages in agricultural labour as aforesaid.

4th.—‘Money’ shall be deemed to include agricultural produce, implements and stock.

5th.—‘Lease’ shall be deemed to include a counterpart, *ka-buliyat*, an undertaking to cultivate or occupy and an agreement to lease.

6th.—‘Standing crops’ shall be deemed to include garden-produce attached to trees or to the soil.

[Printed as amended by Acts XXII of 1882 and XXIII of 1886. See notes to ss. 3 and 12.]

A man must have gained his livelihood for at least one agricultural season by farming, to have acquired the condition of an agriculturist. *Tulsidas v. Virbussapa*. I. L. R., 4 Bom. 624.]

2A. Every *jágirdár* and other authority invested with powers under Bombay Regulation XIII of 1830 and Act XV of 1840 shall, for the purposes of this Act, be deemed to be a Subordinate Judge of such class as the Local Government may from time to time direct. [Added by Act XXII of 1882.]

Jágirdárs, &c.,
to be deemed
Subordinate
Judges.

CHAPTER II.—OF THE HEARING OF CERTAIN SUITS BY SUBORDINATE JUDGES.

3. The provisions of this chapter shall apply to—

(a) suits for an account whatever be the amount or value of the

Application
of this chap-
ter.

subject-matter thereof instituted on or after the first day of November, 1879, by an agriculturist in the Court of a Subordinate Judge under the provisions hereinafter contained, and

(b) suits of the descriptions next hereinafter mentioned and instituted on or after the same date—

(1) when such suits are heard by Subordinate Judges of the first class and the subject-matter thereof does not exceed in amount or value five hundred rupees, or

(2) when such suits are heard by Subordinate Judges of the second class and the subject-matter thereof does not exceed in amount or value one hundred rupees, or

(3) when such suits are heard by Subordinate Judges of the second class and the subject-matter thereof exceeds one hundred rupees, but does not exceed five hundred rupees, in amount or value, and the parties to the suits agree that such provisions shall apply thereto.

The descriptions of suits referred to in clause (b) are the following (namely) :—

(w) suits for the recovery of money alleged to be due to the plaintiff—

on account of money lent or advanced to, or paid for, the defendant, or as the price of goods sold, or

on an account stated between the plaintiff and defendant, or

on a written or unwritten engagement for the payment of money not hereinbefore provided for ;

(x) suits for the recovery of money due on contracts other than the above and suits for rent or for moveable property, or for the value of such property, or for damages ; and

(y) suits for foreclosure or for the possession of mortgaged property, or for sale of such property, or for foreclosure and sale, when the defendant, or any one of the defendants is an agriculturist ; and

(z) suits for the redemption of mortgaged property when the plaintiff, or, where there are several plaintiffs, any one of the plaintiffs, is an agriculturist.

[Printed as amended by Acts XXIII of 1931 and XXII of 1882 and XXIII of 1886. See notes to Preamble, ss. 12, 15B, & 20.

An application of ch. II., which would be illegal and wrong if the Subordinate Judge knew that the subject-matter was of more than Rs. 100 value, may be sustained if he was led into applying it by honest misinformation. In such a case the revisional proceedings of the Special Judge cannot be held to be without jurisdiction. *Kondaji v. Anau*, I. L. R., 7 Bom. 448.

Section 3 has no application to cases heard by Assistant Judges, and an appeal would lie against Assistant Judges' decision under the Act. *Mahadaji v. Ramachandra*, 1885, P. J., 159.

The plaintiff an agriculturist sued to redeem. During the pendency of the suit the definition of agriculturist was changed. *Held* that if he was not an agriculturist when the decree had to be made he had no right to invoke the special provisions of s. 12. A change

in the law does not generally affect pending proceedings. But a change of *status* or legal capacity generally operates at once to extinguish, diminish or vary the extent to which a party may claim the aid of a court. *Padgaya v. Baji*. I. L. R., 11 Bom. 469.

The Dekkhan Agriculturists' Relief Act, as amended by Act XXII. of 1882, applies as well to persons who were agriculturists when the liability in the suit was incurred as to those who are so when the suit is instituted. *Banu v. Krishnambhat*. 1886, P. J., 159.

An assignment by agriculturist mortgagors of their equity of redemption to a non-agriculturist will not confer on the latter the privileges of an agriculturist under this Act. *Rajaram v. Lakshman*. 1882, P. J., 424.

A suit by a mortgagee to recover possession of the mortgaged property from the mortgagor under the terms of a lease does not come under this Act. *Mulchand v. Ravji*. 1883, P. J., 184.

Consent given under cl. b (3) cannot be withdrawn after the hearing begins and proceeds to a certain stage on the footing of that consent. The valuation must be taken to be the amount remaining due on the mortgage. *Rupchand v. Balvant*. I. L. R., 11 Bom., 591.

In a redemption suit the valuation of the subject-matter does not depend on the value of the mortgaged property. If the mortgage is denied and the mortgagee does not say what he claims in respect of the mortgage-debt, the amount found to be due, if any was due when the suit was filed, would represent the true valuation. *Amrita v. Naru*. I. L. R., 13 Bom. 489.

A suit by an Inamdar to recover *Mamul Judi* i.e. money due on account of the Deah-mukhi allowance assessed on land in the village, is not a suit for money due on an unwritten engagement or rent within the meaning of s. 3 (b) the allowance being in the nature of a tax or cess imposed on the property. *Narayan v. Gangadhar*. 1888, P. J., 283.

A suit against an agriculturist on a bond to secure the payment of the price of grain and the interest due on a mortgage-bond given to secure an old debt falls within cl. (w) of this section. *Dipchand v. Kashi*. 1881, P. J., 116.

A suit to recover fees due to the plaintiff as defendant's pleader is one on an implied contract. *Rango v. Kalu*. 1885, P. J., 221.

Suits on implied contracts fall under cl. (x.) *Rango v. Kalu*. 1885, P. J., 221; *Shankarbhat v. Raghunathbhat*. 1892, P. J., 288.

A suit to recover a sum of Rs. 30 as rent falls under cl. (x) although a question of title was incidentally raised in it and decided. No appeal would therefore lie in such a suit as is disallowed by s. 10 but it would be open to revision under s. 50. *Shidu v. Ganesh*. I. L. R., 16 Bom., 128.

A suit for redemption of a pledge falls under cl. (x) which applies in cases where Act XVII of 1879 is in force though neither party be an agriculturist.

Where in a suit of the description mentioned in s. 3, cl. (y), the amount of the creditor's claim is disputed, the Court is bound under s. 12 to enquire into the history and merits of the case from the commencement of the transactions between the parties. *Appa v. Bapu*. 1885, P. J., 255.

In a redemption suit one of the defendants was sued merely as a person in possession, held that the suit as against that defendant was one in ejectment and as an ejectment suit was not governed by cl. (z) an appeal against the decree in such suit would lie *Sakharam v. Shripati*. I. L. R., 16 Bom., 183.

The provision in cl. (z) s. 3 is not limited to an agriculturist who is himself the original mortgagor; where the assignee is an agriculturist he is entitled to the benefit of ss. 12, 13 and 14. *Annaji v. Bapuchand*. I. L. R., 7 Bom. 520; *Shripati v. Sitaram*. 1887. P. J., 296.

Cl. (z) applies when the plaintiff is an agriculturist and the property is immovable. *Kashiram v. Hiranand*. I. L. R., 15 Bom. 30.]

Certain
suits to be
instituted
in Courts of
first class
Subordinate
Judges.

4. Where a Subordinate Judge of the first class and a Subordinate Judge of the second class have ordinary jurisdiction in the same local area, every suit referred to in section three, clause (b), and instituted in such local area shall, if the amount or value of the subject-matter of such suit exceeds one hundred rupees and does not exceed five hundred rupees, be instituted in the Court of the Subordinate Judge of the first class.

Subordinate
Judges not
to act as
Judge of
Small Cause
Court.

5. Notwithstanding anything contained in the Bombay Civil Courts Act, 1869, section 28, no Subordinate Judge shall be invested with the jurisdiction of a Judge of a Court of Small Causes; and any such jurisdiction heretofore conferred on any Subordinate Judge shall be deemed, except as regards suits instituted before the said first day of November, 1879, to have been withdrawn.

Jurisdiction
of Subordinate
Judge and
Small Cause
Court.

6. The Local Government may, from time to time, by notification in the local Gazette, direct that any class of suits which a Subordinate Judge would be precluded from hearing by section 12 of Act XI of 1865 (*to consolidate and amend the law relating to Courts of Small Causes beyond the local limits of the ordinary original civil jurisdiction of the High Courts of Judicature*), shall be heard and determined by him and not otherwise, and may, by a like notification, cancel any such direction.

[His Excellency the Governor in Council is hereby pleased to direct, in exercise of the power conferred by section 6 of the Dekkhan Agriculturists' Relief Act, 1879, that any suit of the descriptions mentioned in section 3, clauses (w) and (x) of the said Act, which the subordinate Judge of Poona would be precluded from hearing by section 12 of Act XI of 1865 shall, if the defendant or any one of the defendants, not being merely a surety of the principal debtor, is an agriculturist, be heard and determined by him and not otherwise. 1879, G. G., 934.]

Summons to
be for final
disposal of
suit.

7. In every case in which it seems to the Court possible to dispose of a suit at the first hearing, the summons shall be for the final disposal of the suit.

Court to
examine de-
fendant as
witness.

In every suit the Court shall examine the defendant as a witness unless, for reasons to be recorded by it in writing, it deems it unnecessary so to do.

[For form of summons see p. 467 of High Court Rule Book 1892.]

Written
statements.

8. In suits of the descriptions mentioned in section three, clauses (w) and (x), no party shall be entitled without the permission of the Court to file a written statement.

Record of
evidence.

9. When the subject-matter of any suit does not exceed ten rupees in amount or value, it shall not be necessary to take down the evidence or make a memorandum thereof in manner provided by the Code of Civil Procedure; but in cases where the evidence is not so taken down and no memorandum is so made, the substance of the evidence shall be stated in the judgment.

10. No appeal shall lie from any decree or order passed in any suit to which this chapter applies. No appeal to lie.

[See notes to s. 8.]

CHAPTER. III—OF SUITS AND OTHER PROCEEDINGS TO WHICH AGRICULTURISTS ARE PARTIES.

11. Every suit of the description mentioned in section three, clause (w), may, if the defendant, or, when there are several defendants, one only of such defendants, is an agriculturist, be instituted and tried in a Court within the local limits of whose jurisdiction such defendant resides and not elsewhere. Agriculturists to be sued where they reside.

Every such suit in which there are several defendants who are agriculturists may be instituted and tried in a Court within the local limits of whose jurisdiction any one of such defendants resides and not elsewhere.

Nothing herein contained shall affect sections 22 to 25 (both inclusive) of the Code of Civil Procedure.

[The effect of the extension of this section, by the first section, to all India, is simply to impose upon any person in any part of India, who brings a suit of the nature mentioned in the 3rd section of the Act, against an agriculturist or agriculturists residing within the districts of Poona, Satara, Sholapur or Ahmednager, the necessity of instituting such suit and having it tried in a court within the local limits of whose jurisdiction agriculturist or agriculturists reside, which court must necessarily be in some one of those four districts. *Purshotam v. Bhavanji* I. L. R., 4 Bom. 360.

"Every suit of the descriptions mentioned in section 3 cl. (w)" signify suits answering only to the description there given as to their character and it is not necessary that they should also satisfy the concurrent limitations as to value. *Tulsidas v. Virbussapa*. I. L. R., 4 Bom. 624.]

12. In any suit of the description mentioned in section three, clause (w), in which the defendant or any one of the defendants, is an agriculturist, History of transactions with agriculturist-debtors to be investigated.

and in any suit of the descriptions mentioned in section three, clause (y) or clause (z),

the Court, if the amount of the creditors' claim is disputed, shall examine both the plaintiff and the defendant as witnesses, unless, for reasons to be recorded by it in writing, it deems it unnecessary so to do, and shall enquire into the history and merits of the case, from the commencement of the transactions between the parties and the persons (if any) through whom they claim, out of which the suit has arisen, first, with a view to ascertaining whether there is any defence to the suit on the ground of fraud, mistake, accident, undue influence or otherwise, and secondly, with a view to taking an account between such parties in manner hereinafter provided.

When the amount of the claim is admitted and the Court for reasons to be recorded by it in writing believes that such admission is true and is made by the debtor with a full knowledge of his legal

rights as against the the creditor, the Court shall not be bound so to enquire, but may do so if it thinks fit.

In other cases in which the amount of the claim is admitted the Court shall be bound to enquire as aforesaid.

Section IX, clause first, of Bombay Regulation V of 1827 is repealed so far as regards any suit to which this section applies.

Nothing herein contained shall affect the right of the parties to require that any matter in difference between them be referred to arbitration.

[Printed as amended by Acts XXIII of 1881 and XXIII of 1886. See notes to s. 3

In a foreclosure suit the assignee of an agriculturist mortgagor is entitled to the benefit of ss. 12-14 if he is himself an agriculturist. *Dnyanu v. Apa*. 1883, P. J., 271.

In a suit by a mortgagor for an account, the title of a person in possession can be tried in order to ascertain whether or no profits of the land since he got into possession were held by him as mortgagee, and therefore to be placed to the credit of the plaintiff's account. *Rama v. Karimkhan*. 1885, P. J., 112.

There is nothing in the Dekkhan Relief Act which can justify the omission of the ordinary direction for foreclosure in default of payment. *Abaji v. Ganu*. 1889, P. J., 77.

The owner of part of the equity of redemption has a right to redeem the whole of the mortgaged property on paying the whole of the mortgage debt, and where he does so on the terms of the Dekkhan Relief Act, the other sharers in the equity of redemption though not agriculturists, are entitled to get the benefit thereof. *Gulabpuri v. Pandurang*. 1886, P. J., 142.

In a suit for redemption by the assignee of an agriculturist mortgagor the District Judge dismissed the plaintiff's suit on the ground that the assignment was not made *bond fide*, as he considered the admitted consideration to be inadequate. *Held*, that the issue did not properly arise in this suit against the mortgagee. *Tukaram v. Bahirav*. 1888 P. J., 7.

A person claiming the benefit of this section at the trial should fill the character of an agriculturist as then defined by law. *Shenlal v. Herichand*. I. L. R., 10 Bom. 367.

It is obligatory on the Courts to investigate the history of all transactions of agriculturist debtors without regard to any admissions made by such debtors save in very exceptional cases and for reasons to be recorded in writing. Where, therefore, an agriculturist mortgagor sued for an account and redemption admitting in the plaint that the land had been mortgaged for three sums advanced at different times, *held* that the Court was bound to inquire not only into the amount but also as to the nature of the obligation and no item would be accepted as a charge on the land which is not proved to have been advanced on the security thereof. *Bhaw v. Antaji*. 1884, P. J., 77.

The Dekkhan Agriculturists' Relief Act makes it the duty of the Court to enquire into the history of past transactions. Although therefore, a party may not have asked the Court of First Instance to enquire into such history, it is still his strict right to have such enquiry made, and he is not too late in insisting on it before the Court of Appeal with a view to support the decree of the Lower Court. *Putaji v. Sadashiv*. 1887, P. J., 211. See also *Amarchand v. Lakshman*. 1890. P. J., 220.

Section 12, so far as regards suits to which it applies, repeals cl. 1 of s. 9 of Regulation V. of 1827. Therefore, in a suit on a bond against agriculturists, if the defendant admits execution, the *onus* is not on him of proving that he had not received full consideration; but the claim being disputed, it is incumbent on the Judge to enquire into the history and merits of the case in the manner prescribed by ss. 12 and 13. *Pandu v. Ganesh*. 1885, P. J., 228.

A Court enquiring into the history of a case under s. 12 is not intended to eke out by mere guesses a history which is defective. The proper course is to start from the point where reasonable certainty begins. *Mahadu v. Rajaram*. 1887. P. J., 216.

Where a plaintiff, an agriculturist, who had in 1876 executed a mortgage for Rs. 350 under which Rs. 200 only had been received, induced the defendant to pay Rs. 350 to the mortgagee in satisfaction of his claim and the mortgagee executed an assignment of the mortgage to the defendant which the plaintiff signed, *held* that in taking the accounts the Court could not go behind this transaction as it constituted commencement of the transactions between the plaintiff and the defendant. *Lakshman v. Maina*. 1883. P. J., 320.

The rule of law that the right to redeem is coextensive with the right to foreclosure and is, therefore, postponed until the time fixed for the payment of the mortgage debt, does not apply to cases under this Act. An agriculturist mortgagor can, therefore, sue for account and possession of mortgaged property before the time fixed for the payment of the debt on the ground that the debt is satisfied. *Babaji v. Vithu*. I. L. R., 6 Bom. 734.

A suit on a bond to secure the payment of the price of grain and the interest due on a mortgage bond given to secure an old debt is not sustainable as being inconsistent with the intention of the Legislature apparent in ss. 12, 13 and 14. In such a case the plaintiff should be allowed to amend the plaint by seeking for an account of what was due to him on the mortgage and for such relief by way of foreclosure or sale as he may be entitled to. *Dipchand v. Kashi*. 1881. P. J., 116.

In a suit for account and redemption if the mortgagee on taking the account is found to have been overpaid, the general practice is to order repayment of the excess with interest from the date of suit. The application of this rule, however, to the taking of accounts under s. 13, would not only lead, where the mortgage contract is set aside for taking such accounts, to the redemption of the mortgaged lands contrary to the terms of the contract but would in many cases oblige the mortgagee to refund money which had rightly come into his hands under that contract. An agriculturist sued for account and redemption. The defendant pleaded under the mortgage bond he was not liable to account. The plea was overruled. A balance was found in plaintiff's favour. The decree was for redemption and the amount. *Held* that the lower court's decree should be varied by omitting the direction as to payment of the balance to the plaintiff. *Janoji v. Janoji*. I. L. R., 7 Bom. 185.

The "Court" mentioned in this section as well as in Sect. 13 is the court mentioned in section 11 which must be a court within the local limits of whose jurisdiction the defendant resides, and not elsewhere. This section as well as sect. 13 are applicable only to suits instituted upon and after the 1st. of Nov. 1879. *Suryaji v. Tukaram*. I. L. R., 4 Bom. 358.

No strict rule as to *onus* can be laid down in investigating the history and merits of a case under s. 12. Though s. 12 does not repeal s. 92 proviso. I and s. 102 of the Evidence Act, the intention of the legislature clearly was to relieve the debtor of the necessity of proving failure of consideration although admitted in the bond on which he is sued and the execution of which he admits. *Malaji v. Vithu*. I. L. R., 9 Bom. 520.

L mortgaged certain lands to D in the year 1847 for Rs. 150 carrying interest at 27 per cent. and M became surety for him. It was agreed that if L did not pay the money when demanded by D, M should pay it, and having thus redeemed the land, take possession of it. In 1876, the mortgagee having demanded the money, M paid to him Rs. 400, that were found due and took possession of the land. In a suit brought by L against M for redemption it was argued on behalf of L that as L was an agriculturist accounts should be taken from the date of the mortgage under s. 13 of the Act, and that if only 12 per cent. interest was allowed, less than Rs. 400, would be found due on the mortgage in 1876; that of the Rs. 400 only Rs. 150 represented the principal money and the rest accumulations of interest; and so interest should be allowed on the latter; that as M subrogated into the rights of the creditor, and there was no provision in the deed for making rests, and, as nothing was agreed about interest between plaintiff and defendant, under Regulation V. of 1827, s. 15, profits should be set off against the interest; and that there should be no foreclosure clause in the decree. *Held*, that M was not a transferee of the mortgage, that the transaction between L and M, within the contemplation of s. 12 and under which M claims to hold the land, arises out of the implied agreement at the time of the mortgage that L would indemnify M for whatever sum he might have to pay as surety; that the property,

therefore, remained with M as a security for the entire sum of Rs. 400 and interest; that Regulation V. of 1827 was not applicable to a case of principal and surety; that when the decree orders payment of the entire debt found due to be made within a fixed period, there is nothing in the Deekhan agriculturists' Relief Act to justify the omission of the ordinary direction for foreclosure. *Lakshman v. Malhar*. 1886. P. J., 191.]

Mode of
taking ac-
count.

13. When the Court enquires into the history and merits of a case under section twelve, it shall—

notwithstanding any agreement between the parties or the persons (if any) through whom they claim, as to allowing compound interest or setting-off the profits of mortgaged property without an account in lieu of interest, or otherwise determining the manner of taking the account,

and notwithstanding any statement or settlement of account, or any contract purporting to close previous dealings and create a new obligation,

open the account between the parties from the commencement of the transactions and take that account according to the following rules (that is to say):—

(a) separate accounts of principal and interest shall be taken :

(b) in the account of principal there shall be debited to the debtor such money as may from time to time have been actually received by him or on his account from the creditor, and the price of goods, if any, sold to him by the creditor as part of the transactions :

(c) in the account of principal there shall not be debited to the debtor any money which he may have agreed to pay in contravention of section 257A of the Code of Civil Procedure :

(d) in the account of principal there shall not be debited to the debtor any accumulated interest which has been converted into principal at any statement or settlement of account or by any contract made in the course of the transactions, unless the Court, for reasons to be recorded by it in writing, deems such debit to be reasonable :

(e) in the account of interest there shall be debited to the debtor, monthly, simple interest on the balance of principal for the time being outstanding, at the rate allowed by the Court as hereinafter provided :

(f) all money paid by or on account of the debtor to the creditor or on his account, and all profits, service or other advantages of every description, received by the creditor in the course of the transactions (estimated, if necessary, at such money-value as the Court in its discretion, or with the aid of arbitrators appointed by it, may determine) shall be credited first in the account of interest ; and when any payment is more than sufficient to discharge the balance of interest due at the time it is made, the residue of such payment shall be credited to the debtor in the account of principal :

(g) the accounts of principal and interest shall be made up to the date of instituting the suit, and the aggregate of the balances (if any) appearing due on both such accounts against the debtor on that date shall be deemed to be the amount due at that date, except when the balance appearing due on the interest-account exceeds that appearing due on the principal-account, in which case double the latter balance shall be deemed to be the amount then due.

[See notes to ss. 3, 12, 15A and 44.

The Judge is not justified in assuming without evidence that one half of the sum stipulated in the final bond as representing old books constituted the original advance and one half interest thereon. *Vithal v. Mahadaji*. 1888. P. J., 71.

If a distinct conclusion be come to that the consideration money for a particular bond sued upon was actually paid in cash, and no part of it was applied in satisfaction of any previous obligation between the parties, the transactions would be so disconnected from the previous transaction between the parties as not to call for any enquiry into their history. *Gopal v. Yashwantrao*. 1887. P. J., 273.

The word "profits" in cl (c) means "net profits." *Baburao v. Vishnu*. 1885. P. J., 81.

Account should not be taken upto a date subsequent to the institution of the suit. *Apa v. Gopala*. 1889. P. J., 157.

Where a mortgagee having obtained a decree on his mortgage bond to the effect that he should retain possession till a certain sum was paid to him by the mortgagor, has been in possession for several years and the mortgagor prays for redemption alleging that the amount of the mortgage debt has been fully liquidated from the surplus profits of the land, the court has no authority under this section to direct that an account of the profits should be taken and a new decree passed in accordance with the result of such account. The possession and enjoyment of the mortgagee under the decree are held under a complete right of record but the court, under section 15 B, can so far modify the decree that it may direct payment by instalments of the amounts adjudged in the decree and can also make such orders as it thinks fit as to the appropriation of future profits and the accounting for them by the mortgagee who is in possession. *Navlu v. Raghu*. I. L. R., 8 Bom. 303.

When a decree has been passed upon a contract, the latter is merged in the former. S. 13 furnishes no warrant to go behind the decree; since a decree, though based upon the contract and giving effect to it in a particular way, is so distinct from it that it is extinguished by the decree and entirely different principles apply to them in case revision should be sought. *Tatya v. Bapu*. I. L. R., 7 Bom. 330.

Where an agriculturist in one suit claimed redemption of lands mortgaged by two separate mortgagors, held that sect. 13 contains no word enabling the court to try them as one and that separate accounts of the two mortgages must be taken. *Ramchandra v. Janardan*. I. L. R., 14 Bom. 19.

A Court cannot go behind a decree passed in a suit instituted before this Act came into force and enquire into the history of transactions settled by that decree. *Goverdhan, v. Yessu and Apaji v. Atmaram*. 1882, P. J., 24 & 125.

Where a mortgage provided for the repayment of the principal amount Rs. 100 with interest at Rs. 2 per cent. per mensem within 4 months and contained the following provision: "you the mortgagees are to pay the Government assessment and Local Fund cess of the said piece of land and to receive the income thereof and should any rent be received in respect of the *wada* the same is to be received by you as profit and you are to receive the income of the said piece of land in lieu of the Government assessment." Held that there was nothing in the deed which led clearly to the conclusion that the mortgagee was to receive for his own benefit more or less than the principal sum and interest at the agreed amount for four months from the date of the bond nor was there any stipulation express or implied that the account should not be taken in the ordinary manner and, therefore, cl. 2 of this section applied. *Kashinath v. Ambaji*. 1881, P. J., 74.]

Interest to be allowed.

14. The interest to be awarded in taking an account according to the rules set forth in section thirteen shall be—

(a) the rate, if any, agreed upon between the parties, or the persons (if any) through whom they claim, unless such rate is deemed by the Court to be unreasonable; or

(b) if such rate is deemed by the Court unreasonable, or if no rate was agreed upon, or, when any agreement between the parties, or the persons (if any) through whom they claim, to set-off profits without an account in lieu of interest has been set aside by the Court, such rate as the Court deems reasonable.

[See notes to ss. 3 and 12.]

Reference to arbitration in certain cases.

15. Instead of enquiring into the history and merits of a case under section twelve, or if upon so enquiring the Court is unable to satisfy itself as to the amount which should be allowed on account of principal or interest or both, the Court may, of its own motion, direct that such amount be ascertained by arbitration.

If the parties are willing to nominate arbitrators, the arbitrators shall be nominated by them in such manner as may be agreed upon between them: if the parties are unwilling to nominate arbitrators or cannot agree in respect of such nomination, the Court shall appoint any three persons it thinks fit:

Provided that if all the parties reside in the same village, town or city, and, in the opinion of the Court, three fit persons can be found among the residents of such village, town or city, it shall appoint residents of such village, town or city.

The provisions of Sections 508 to 522 (both inclusive) of the Code of Civil Procedure shall apply to every reference to arbitration under this section.

Mortgagor, entitled to decree for redemption though time fixed by mortgage has not arrived or debt has not been paid.

15A. In a suit of the description mentioned in section three, clause (z), the Court shall not refuse to pass a decree for redemption merely on the ground that the time fixed for the payment of the principal of the mortgage-money has not arrived, or on the ground that the mortgage-debt has not been completely discharged, or on both.

[Inserted by Act XXII of 1882.]

The Court has power to place a mortgagor suing for redemption in possession of the mortgaged property before the debt is paid off. *Kisandas v. Muktabai*. 1888. P. J., 287.

An agreement between mortgagor and mortgagee to the effect that the latter should hold the land for twenty years in satisfaction of the mortgage debt, offends against the spirit of s. 15A by virtually providing for principal and interest not being paid off for twenty years, and therefore it should be disregarded and the amount due on the mortgage determined under s. 13. *Mahipatray v. Gambhirmal*. 1886, P. J., 141.]

Power to order payment by instalments in case of decree for redemption, foreclosure or sale.

15B. (1) The Court may in its discretion, in passing a decree for redemption, foreclosure or sale in any suit of the descriptions mentioned in section three, clause (y) or clause (z), or in the course of any proceedings under a decree for redemption, foreclosure or sale passed in any such suit, whether before or after this Act comes

into force, direct that any amount payable by the mortgagor under that decree shall be payable in such instalments, on such dates and and on such terms as to the payment of interest, and, where the mortgagee is in possession, as to the appropriation of the profits and accounting therefor, as it thinks fit.

(2) If a sum payable under any such direction is not paid when due, the Court shall, except for reasons to be recorded by it in writing, instead of making an order for the sale of the entire property mortgaged or for foreclosure, order the sale of such portion only of the property as it may think necessary for the realization of that sum.

[Inserted by Act XXII of 1882. See Notes to s. 13.

The applicant mortgagor sued defendant for redemption. The account was made up as directed by the Relief Act and the mortgagor was directed to pay up the amount due within six months or to be for ever foreclosed. He failed to pay within the proper time and the property thus became vested in the mortgagee, defendant. The ownership having thus passed to the mortgagee, cannot be taken back from him by a subsequent order not founded on any new transaction or change in the jural relations of the parties. A mere application to the Court to order payment by instalment cannot give the Court authority to take away property vested by its previous order. *Ladu v. Babaji*. I. L. R., 7 Bom. 532.

This section allows the Court to order payment of a decree by instalments either in its decree or in the course of the execution but it does not authorise the variation of any order once so made. *Balkrishna v. Abaji*. I. L. R., 12 Bom. 326.

An application by the mortgagor, after a consent decree has been passed in a redemption suit, to make the amount of the mortgage-debt payable by instalment is not a "proceeding under the decree" within the meaning of cl. 1, of this Section and therefore the Subordinate Judge has no jurisdiction to modify the decree in that way. *Da'to. v. Balwant*. 1885, P. J., 248.

Where the defendant having been held, in a suit brought against him in 1880, not to be an agriculturist, sought to have the money decree passed against him in that suit executed by instalment under s. 15B introduced into the Dckkhan Agriculturists' Relief Act by Act XXII of 1882, on the ground that, since the decision of 1880, he had given up his trade, and was exclusively engaged in agriculture, *held*, that as s. 73 of the Act provided that "the decision of any Court of First Instance that any person is or not an agriculturist, shall for the purposes of the Act, be final," and as the purpose of the Act was to restrict the powers of the creditor in executing his decree, which powers were further limited by the discretion given to the Court by s. 15B, the decision in 1880 must be deemed to be final in determining whether the defendant could avail himself of that Section. *Mahalingapa v. Nemchand*. 1887, P. J., 77.]

15C. (1) The Court may, if it thinks fit, in any suit for the possession of mortgaged property under section three, clause (y), instead of passing a decree for possession of that property, pass a decree directing that the amount payable by the mortgagor shall be payable in such instalments, on such dates and on such terms as to the payment of interest, and as to the appropriation of the profits and accounting therefor, as it thinks fit.

Power to order payment by instalments in suits for possession of mortgaged property.

(2) If a sum payable under any such direction is not paid when due, the Court may, if it thinks fit, instead of making any other order which it is empowered to make for the realization of that sum,

make an order directing that the mortgagee be put in possession of the whole or any portion of the property mortgaged.

[Inserted by Act XXII of 1882.]

Mortgagor
may sue for
account.

15D. (1) Any agriculturist whose property is mortgaged may sue for an account of the amount of principal and interest remaining unpaid on the mortgage and for a decree declaring that amount.

(2) When any such suit is brought, the amount (if any) remaining unpaid shall be determined under the same rules as would be applicable under this Act if the mortgagee had sued for the recovery of the debt.

(3) At any time before the decree in the suit is signed, the plaintiff may apply to the Court to pass a decree for the redemption of the mortgage, or the mortgagee, if he would then have been entitled to sue for foreclosure or sale, may apply to the Court to pass a decree for foreclosure or sale (as the case may be), instead of a decree merely declaring the amount remaining unpaid; and the Court may, if it thinks fit, grant the application.

(4) The provisions of section 15 B shall apply to any decree passed under sub-section (3).

[Inserted by Act XXII of 1882.]

A suit brought under this section if there are several mortgage bonds affecting the land the account must be taken of all of them in the same suit and if the total amount exceeds Rs. 500 the case will not fall under Chapter II of this Act. If it exceeds Rs. 5,000, the First Class Subordinate Judge alone has jurisdiction. *Pabaji v. Hari*, I. L. R., 16 Bom. 351.]

Agriculturist-
debtors may
sue for ac-
counts.

16. Any agriculturist may sue for an account of money lent or advanced to or paid for him by a creditor, or due by him to the creditor as the price of goods sold, or on a written or unwritten engagement for the payment of money, and of money paid by him to the creditor, and for a decree declaring the amount, if any, still payable by him to the creditor.

Amount of
debts in such
cases to be
determined
according to
foregoing
provisions.

When any such suit is brought, the amount (if any) payable by the plaintiff shall be determined under the same rules as would be applicable under this Act if the creditor had sued him for recovery of the debt.

[See notes to s. 20. An agriculturist mortgagor has no right to sue his mortgagee merely for an account but according to the ordinary law must also ask for redemption. *Hari v. Lkshman* I. L. R., 5 Bom 614; *Shankarapa v. Danapa*. I. L. R., 5 Bom. 607.]

Decree under
section 16
may provide
for payment
by instal-
ments.

Execution of
decrees under
this section.

17. A decree passed under section sixteen may, besides declaring the amount due, direct that such amount shall be paid by instalments, with or without interest; and, when any such decree so directs, the plaintiff may pay the amount of such decree, or the amount of each instalment fixed by such decree, as it falls due, into court, in default whereof execution of the decree may be enforced by the defendant in the same manner as if he had obtained a decree in a suit to recover the debt.

18. The plaintiff in any suit instituted under section sixteen may at any stage of such suit deposit in court such sum of money as he considers a satisfaction in full of the defendant's claim against him. Payment into court in cases under section 16.

Notice of the deposit shall be given by the Court to the defendant, and the amount of the deposit shall (unless the Court otherwise directs) be paid to the defendant on his application.

No interest shall be allowed to the defendant on any sum so deposited from the date of the receipt of such notice, whether the sum deposited be in full of the claim or fall short thereof.

19. When a decree has been passed, whether before or after this Act comes into force, under which any sum less than fifty rupees is recoverable from an agriculturist, the Court on application or of its own motion may, either in the course of execution of such decree or otherwise, if it is satisfied that the other debts (if any) due by him do not, taken together with such sum, amount to fifty rupees and that he is unable to pay the whole of such sum, direct the payment of such portion of the same as it considers him able to pay, and grant him a discharge from the balance of such sum. Power to discharge judgment-debtor.

When the sum payable under the decree amounts to fifty rupees or upwards, or when there are other debts due by the debtor which together with such sum amount to fifty rupees or upwards, the Court on application or of its own motion may direct proceedings to be taken with respect to him as nearly as may be as if he had applied to be declared an insolvent under the provisions hereinafter contained. Power to direct institution of insolvency-proceedings.

[Printed as amended by Acts XXIII of 1881 and XXII of 1882.]

20. The Court may at any time direct that the amount of any decree passed, whether before or after this Act comes into force, against an agriculturist, or the portion of the same which it directs under section nineteen to be paid, shall be paid by instalments with or without interest. Power to fix instalments in execution.

[Sec. 20 does not apply to decrees in mortgage suits. *Balkrishna v. Dnyanoba*, 1889, P. J., 25.]

This Section does not authorise a series of instalment-orders each one varying from the preceding. *Balkrishna v. Abaji*, I. L. R., 12 Bom. 326.

The words "decree passed against an agriculturist" mean against him *personally* and do not include a decree for the recovery of money by the sale of mortgaged property. The effect of this section must be taken to be an enlargement of the indulgence granted by section 210 of the Civil Procedure Code. The latter allows of instalments provided the decree holder consents. The former allows the same *without the consent* of the decree holder. The Civil Procedure does not empower a Court to make payable by instalments a decree for recovery of money by sale of mortgaged property. Nor does the Relief Act so empower. Comparing s. 16 with s. 3 cl. (w) of the latter it is clear that the debts are *not secured by mortgage*. In the case of a debt secured by a mortgage the agriculturist's remedy lies, not in a suit for an account, but in a suit for redemption (s. 3 cl. 2); and there being no special provision in the Act authorising instalments the only decree which can be made is the ordinary one for payment within six months of the whole

amount or for foreclosure in default of such payment. *Shankarappa v. Danappa*. I. L. R., 5 Bom. 604.]

Arrest and imprisonment in execution of decree for money abolished.

21. No agriculturist shall be arrested or imprisoned in execution of a decree for money, passed whether before or after this Act comes into force.

[Printed as amended by Act XXII of 1882.]

Immovable property exempted from attachment and sale unless specifically pledged.

22. Immovable property belonging to an agriculturist other than his standing crops shall not be attached or sold in execution of any decree or order passed whether before or after this Act comes into force unless it has been specifically mortgaged for the repayment of the debt to which such decree or order relates, and the security still subsists.

But the Court on application or of its own motion may, when passing a decree against an agriculturist or in the course of any proceedings under a decree against an agriculturist passed whether before or after this Act comes into force, direct the Collector to take possession, for any period not exceeding seven years, of any such property of the judgment-debtor to the possession of which he is entitled, and which, in the opinion of the Collector, is not required for his support and the support of the members of his family dependent on him, and the Collector shall thereupon take possession of such property and deal with the same for the benefit of the decree-holder in manner provided by section twenty-nine.

The provisions of section thirty-one shall, *mutatis mutandis*, apply to any property so dealt with.

[Printed as amended by Act XXII of 1882 and XXIII of 1886. See notes to ss. 21 & 22. Standing crops are immovable property. *Sadu v. Sambhu*. I. L. R., 6 Bom. 592.]

The amendment introduced into this Section by Act XXII of 1882 governs an application for sale of the property of an agriculturist although the decree and attachment order were before the date of the amendment, because an order for sale, being not merely ancillary or provisional but a further substantive step in execution, is a new proceeding. Moreover, a law passed to promote some important public interest may be given on that account a retroactive operation as the rule against such operation rests itself on such a general public interest which may be deemed of less importance than the one embodied in the Statute. *Shierum v. Kondiba*. I. L. R., 8 Bom. 340.

An application for attachment of the property of an agriculturist in execution of a decree being forbidden by this Section is not an application "in accordance with law" within the contemplation of Art. 179 of Sched. II of Act XV of 1877. *Chatur v. Mahadu*. I. L. R., 10 Bom. 91.]

Chapter not to apply to Village-Munsifs' Courts.

23. No provision of this chapter shall apply to the proceedings in the Courts of Village-Munsifs unless such provision has been specially extended thereto under the power hereinafter conferred.

CHAPTER IV.—OF INSOLVENCY.

Subordinate Judges to have jurisdiction in agriculturists' cases.

24. Every Subordinate Judge shall have the powers conferred by sections 344 to 359 (both inclusive) of the Code of Civil Procedure, as modified by the provisions next hereinafter contained, for the purpose of dealing with applications under the Code of Civil Procedure

or under this Act to have agriculturists residing within the local limits of his ordinary jurisdiction declared insolvent and proceedings taken under orders passed under the second clause of section nineteen; and, except as provided in chapter VII of this Act, no such application or proceeding shall be dealt with by any other Court.

25. Any agriculturist whose debts (if any) amount to fifty rupees or upwards may apply to any Subordinate Judge within the local limits of whose ordinary jurisdiction he resides to be declared an insolvent, though he has not been arrested or imprisoned, and though no order of attachment has issued against his property, in execution of a decree.

Agriculturists may apply for adjudication in cases not provided for by Code.

26. Notwithstanding anything contained in section 351 of the Code of Civil Procedure, the Court shall declare an agriculturist an insolvent if it is satisfied that he is in insolvent circumstances, and that the application to have him declared an insolvent has been properly made under section 344 of the said Code or section twenty-five of this Act.

Modification of section 351 of the Code.

27. No person other than the Názir of the Court shall be appointed as Receiver, and no Receiver shall be entitled to commission.

Receiver.

28. In determining under section 352 of the said Code the amount of any claim of the nature referred to in section twelve of this Act due by an insolvent agriculturist, the Court shall proceed in the manner prescribed by sections twelve to fifteen of this Act, both inclusive.

Proof of debts.

29. No immoveable property of the insolvent shall vest in the Receiver; but the Court on application or of its own motion may direct the Collector to take into his possession, for any period not exceeding seven years from the date on which the Receiver has been appointed, any immoveable property to the possession of which the insolvent is entitled, and which, in the opinion of the Collector, is not required for the support of the insolvent and the members of his family dependent on him, and, subject to any rules the Local Government may from time to time make in this behalf, to manage the same for the benefit of the creditors by letting it on lease or otherwise:

Immoveable property not to vest in Receiver, but may be managed for benefit of creditors.

Provided that, if the insolvent or his representative in interest at any time pays into court the balance of the scheduled debts then unpaid, he shall, subject to any rights created in favour of other persons by the Collector, be entitled to recover possession of such property.

A Collector managing property under this section shall during the management have all the powers which the owner might as such have legally exercised, and shall receive and recover all rents and profits of such property, and for the purpose of recovering such rents and profits shall have, in addition to any powers possessed by an

owner, all powers possessed by a Collector for securing and recovering the land-revenue due to Government, except the powers mentioned in Bombay Land-Revenue Code, 1879, section 150, clauses (b), (d), and (e).

Nothing in this section shall authorize the Court to direct the Collector to take into his possession any houses or other buildings belonging to and occupied by an agriculturist.

[Printed as amended by Act XXII of 1882. The following rules for the management by the Collector of immovable property of which he takes possession under section 22 or section 29 have been framed :—

1. When a court directs the Collector to take possession of any immoveable property of a judgment-debtor or insolvent, it shall transmit with its order copies of all documents, orders or proceedings which it may think necessary to make the Collector aware of essential facts concerning the position of the judgment-debtor or insolvent, and the nature and extent of the property to be managed by him.

It shall also at any time furnish the Collector with copies of any documents, orders, or proceedings other than those transmitted which the Collector for the purpose aforesaid desires to see.

2. The aforesaid copies shall be prepared and sent to the Collector free of all costs to the parties, being made by the court's establishment.

3. On receipt of the court's order, the Collector may either himself proceed to execute it, or may refer it, for disposal, subject to his supervision and control, to any of his subordinates not lower in rank than a Mahalkari.

4. The Collector or other officer to whom he so refers the court's order, shall appoint a day for hearing any representations which the parties may desire to make, and shall cause a written notice to be served on each of them of the day so fixed.

On the appointed day, or as soon thereafter as may be, the Collector or other officer, aforesaid shall, after such inquiry as he deems fit, determine whether any portion of the property to which the court's order relates is required for the support of the judgment-debtor or of the insolvent, and the support of the members of his family dependent upon him.

The decision of any officer other than the Collector under this rule shall be subject to confirmation by the Collector.

5. Possession of the property, or of so much of it as is not, in the opinion of the Collector, required for the support of the persons aforesaid, shall then be taken by the Collector or by the officer aforesaid on behalf of the Collector, and the fact of possession having been so taken shall be published by written notice to the parties, and by proclamation on or near the property in such manner as the Collector or other officer aforesaid deems suitable.

6. If the fact of the judgment-debtor or insolvent being entitled to possession, be disputed, or if any objection be raised to the Collector's taking possession of the property or of any portion of it, the Collector shall refer the parties concerned to the court and pending such reference shall stay proceedings in respect of so much of the property as is in dispute.

7. If after possession of the property has been taken under Rule 6, any order in writing is made by the Collector under Section 73A of the Act, directing that any other immoveable property not so taken shall be deemed to be reserved for the support of the judgment-debtor or insolvent, and the members of his family dependent on him, such order shall be published in the same manner as the fact of possession having been taken.

8. The Collector, or other officer aforesaid, may from time to time require by written notice the attendance of the parties in order to ascertain their wishes, or to obtain information which he may consider necessary to enable him to provide satisfactorily for the execution of the court's order; and if any party fail to attend in pursuance of such notice,

the Collector or other officer aforesaid may decide the matter in his absence, and he shall not be entitled to be heard afterwards with respect thereto.

9. If the property of which possession has been taken by or on behalf of the Collector is in the occupation of a tenant paying rent for a share of the produce to the judgment-debtor or insolvent, the Collector or other officer aforesaid shall issue a written notice to such tenant, requiring him to pay the rent or share to him for so long as his tenure subsists.

If there be no tenant in possession, or on the expiration of the tenure if the land is in the occupation of a tenant, the Collector or other officer aforesaid may let, for a term not exceeding the seven years to which his management extends, with or without payment of a premium, the whole or any part of the said property to the highest bidder; or may let on farm or manage by himself or another, the whole or any part of such property, or may adopt partly one of such modes and partly another or others of such modes as he may deem most convenient and profitable.

The person to whom the Collector or other officer aforesaid lets the property, or through whom he manages it may be the judgment-debtor or insolvent or any person who holds a decree against the judgment-debtor or a insolvent, or a third party as may appear most convenient and beneficial to the parties.

10. The Collector shall from time to time render to the court an account of all monies which come to his hands or to the hands of the officer aforesaid, and of all charges incurred in respect of the property in his management, and shall hold the balance at the disposal of the court.

Such charges shall include all debts and liabilities, from time to time due to the Government in respect of the property or any part thereof, and the rent, if any, from time to time due to a superior holder in respect of such property or part.

11. Where the management is at an end and all monies which have come into the Collector's hands have been disposed of, he shall retransmit the papers received by him under Rule I, together with the proceedings connected with the management of the property, to the court by post or in such manner as may be most convenient.

12. Every notice issued by the Collector or other officer aforesaid under these rules may be served in the manner prescribed by Section 191 of the Bombay Land Revenue Code, or if the person to be served is a party to the proceedings in the court and has a pleader, by forwarding a copy thereof to the court to be served upon the pleader 1885 G. G. 176.]

30. When any scheduled debt is secured by a mortgage of any portion of the insolvent's immoveable property, the Court on application or of its own motion may direct the Collector, if he can obtain a premium equal to the amount of such debt by letting such property for a term not exceeding twenty years, to let such property, and, if he cannot so obtain such premium, to sell such property under section 325 of the Code of Civil Procedure. Secured debts.

Where property is let under this section, the premium shall be applied to the payment of the debt, and the rent, if any, shall for a period of seven years from the date of such letting be paid to the Receiver and thereafter to the insolvent or his representative in interest.

When property is sold under this section, the sale-proceeds shall be applied, first, to the payment of the debt, and the balance, if any, shall be paid to the Receiver.

[Printed as amended by Act XXII of 1882.]

Insolvent incompetent to sell, &c., dealt with under sections 29 and 30.

Scheduled debts discharged

31. So long as any management under section twenty-nine or letting under section thirty continues, the insolvent and his representative in interest shall be incompetent to mortgage, charge, lease or alienate the property managed or let, or any part thereof.

32. When the balance available for distribution among the scheduled creditors under section 356 of the said Code has been distributed, the claims of such creditors shall be deemed to have been discharged, except as regards the right to share in the profits of any property managed by the Collector under section twenty-nine, or let by him under section thirty.

Appeals barred.

33. No appeal shall lie from any order passed under this chapter except orders passed in exercise of the power conferred by section 359 of the Code of Civil Procedure.

CHAPTER V.—OF VILLAGE-MUNSIFS.

Appointment of Village-Munsifs.

34. The Local Government may, from time to time, appoint any Pátel of a village or any other person possessing local influence in a village to be a Village-Munsif for such village, or for such village and for any other villages the sites of which are situate in the same district not more than two miles from the site of such village, and may cancel any such appointment.

Suits triable by them.

35. Every Village-Munsif so appointed shall take cognizance of suits of the description mentioned in section three, clause (w) when the subject-matter thereof does not exceed ten rupees in amount or value, and all the defendants at the time of the commencement of the suit actually and voluntarily reside or carry on business or personally work for gain within the local area for which such Village-Munsif is appointed.

Jurisdiction of other Courts excluded. Proviso.

Notwithstanding anything hereinbefore contained, a suit cognizable by a Village-Munsif shall not be heard by any other Court:

Provided that the District Judge may, from time to time, transfer any suit instituted before a Village-Munsif to his own Court or any other civil Court in the district for trial:

Provided also that no Village-Munsif shall try any suit to or in which he is a party or is personally interested, or shall adjudicate upon any proceeding connected with or arising out of such suit.

[A village Munsif has no jurisdiction to entertain a suit for rent. *Vithal v. Gangaram*. I. L. R., 5 Bom. 180.]

District Judge's power of revision.

36. The District Judge may, on a petition being presented within thirty days from the date of any decree or order of a Village-Munsif by any party deeming himself aggrieved by such decree or order, set aside such decree or order on the ground of corruption, gross partiality or misconduct of the Village-Munsif and pass such other decree or order as he thinks fit.

Except as provided in this Act and in section 622 of the Code of Civil Procedure, every decree and order of a Village-Munsif shall be final.

37. The Local Government may from time to time, by notification in the official Gazette, make rules consistent with this Act for regulating the procedure of Village-Munsifs and for conferring on them or any of them all or any of the powers for the trial of suits or the execution of decrees exercised by a Civil Court under the Code of Civil Procedure or any other enactment for the time being in force.

Power of
Local Gov-
ernment to
make rules.

[The following rules have been framed under this Section :—

1. Every suit in a Village Munsif's Court shall be instituted by presenting to the Village Munsif in person a written plaint in the vernacular language of the district, which should contain the following particulars :—

- (1) The name, religion, caste, profession and place of abode of the plaintiff.
- (2) The name, religion, caste, profession and place of abode of the defendant.
- (3) A statement of the circumstances which have led to the institution of the suit.
- (4) A list of the plaintiff's documents, if any, and of his witnesses, and whether he requires the Village Munsif's assistance to procure their attendance, or whether he will produce them himself, on the day to be appointed under Rule 5.

2. If the plaintiff sues upon a document in his possession or power, he must produce it with his plaint.

3. The Village Munsif shall reject the plaint at once in the following cases :—

- (1) If it appears to the Village Munsif that the subject of the plaint is not within his jurisdiction.
- (2) If it appears to him after questioning the plaintiff that the suit is barred by the limitation law.

4. If the Village Munsif admits the plaint he shall number and register it in a Register to be kept for the purpose in the following form :—

Date of presentation.	No. of suit.	Plaintiff's name, caste, and residence.	Defendant's name, caste, and residence.	Nature of claim.	Final order and date thereof.	How executed.
1	2	3	4	5	6	7

5. When he admits a plaint, he shall fix a convenient day, if possible within seven days from its institution, for the trial of the suit, and he shall require the plaintiff to appear with his documents and witnesses, if any, on the day so appointed. He shall also forthwith with the least practicable delay send for the defendant and personally explain to him the nature of the claim, informing him of the day fixed for the trial and requiring him to be present in person on that day, unless the defendant admits the correctness of the claim and his own liability, in which case the Village Munsif shall record the admission in full and require the defendant to sign or put his mark to the same, and shall also sign it himself.

6. If the defendant does not admit the claim, the Village Munsif shall require him to name his witnesses, if any, and to state whether he will himself produce them or requires the assistance of the Court to procure their attendance, and shall warn him to be present in person with his documents and witnesses, if any, upon the appointed day.

7. Whenever it is necessary to procure the attendance of any defendant or witness

the Village Munsif may require the village officers to produce such person before him; and it shall be the duty of the village officers to obey the requisition of the Village Munsif.

In Ahmednagar, Satara, Sholapur, Bhingar and Wai, the Village Munsif may, when specially authorized in this behalf by the District or Special Judge in cases where other means fail, exercise the powers of a Civil Court for the purpose of enforcing the attendance of defendants and witnesses.

8. On the day appointed for the trial, unless the defendant has previously admitted the claim under Rule 5, in which case he may at once pass a final order, the Village Munsif shall first of all examine the parties, or the persons, if any, permitted to appear for them under section 68 of the Act and shall peruse the documents, if any, produced on either side, in order to ascertain the point or points in issue and whether the defendant has any just answer or defence to the suit; and shall then, if necessary, examine the witnesses on either side; and may also send for and examine any other person who may appear to him likely to be able to give useful evidence as to the matters in dispute; and shall then proceed, at once if possible, to record his final order in accordance with the just merits of the case.

9. If the plaintiff fails without reasonable excuse to attend with his proofs or omits without reasonable excuse to adopt measures to procure the attendance of his witnesses, the Village Munsif shall reject the plaint.

10. If the defendant fails to appear, the Village Munsif shall adjourn the trial to an early day to be fixed by him, and shall meantime take all the measures in his power, with the assistance of the village officers, to procure the attendance of the defendant on such adjourned date: he shall not decide the suit without examining the defendant unless for special reasons to be recorded by him in writing in his final order.

11. If the witnesses on either side or any of them fail to attend on the appointed day, the Village Munsif may, after taking the evidence of those that are present if he considers it necessary for the purposes of justice and for arriving at a satisfactory decision, adjourn the trial for such period as may be necessary to procure their attendance.

12. The Village Munsif shall examine the parties and their witnesses, if any, orally, and it shall not be necessary for him to take down their evidence in writing or make notes thereof; but if he does not do so, he shall embody in his final order the substance of the evidence, together with the points in dispute, and his decision thereon, specifying the amount, if any, awarded to the plaintiff. Such final order shall be deemed to be the decree.

13. If his decision is in favour of the plaintiff either wholly or in part, he may direct the defendant to pay the amount found due, by instalments not extending over a longer period than twelve months.

14. In no case shall he award more than seems to him on a full consideration of all the circumstances and past history of the debt to be justly and equitably due.

15. The final order shall be written in column 6 of the Register mentioned in Rule 4; and the Village Munsif shall give a copy thereof, under his signature, to either party asking for the same.

16. Every order whether rejecting a plaint or allowing or disallowing a claim shall be endorsed briefly by the Village Munsif on the plaint.

17. If the decision awards the plaintiff's claim in whole or part, the defendant may pay the money due by him under the decree into the Village Munsif's Court and in such case shall be given a receipt for the same: and it shall be the duty of the Village Munsif to cause such money to be paid over to the plaintiff and to require his receipt for the same, and to enter the fact of such payment in the last column of the Register.

18. If the decree is satisfied in whole or in part out of Court, it shall be the duty of the plaintiff to certify the fact to the Village Munsif, and when he fails to do so, the defendant may apply to the Village Munsif, who shall then make inquiries; and if he finds it proved that the decree has been so satisfied shall refuse to execute it further. The necessary entry to denote satisfaction under this Rule shall be made in the Register.

19. The decree-holder may at any time within the period allowed by the limitation law apply to the Village Munsif for execution of his decree or such portion of it as may remain unsatisfied; such application must be in writing and must state that the decree of which execution is sought has remained unsatisfied in whole or in part, as the case may be.

20. In the case of a decree which allows payment by instalments, any default by the judgment-debtor entitles the decree-holder to apply for execution.

21. On application as aforesaid by the decree-holder the Village Munsif may, after making such inquiry as he deems necessary, cause the decree to be executed by the attachment and sale of any moveable property within the local area of his jurisdiction belonging to and in the possession of the judgment-debtor, except such property as is mentioned in the proviso to section 266 of the Civil Procedure Code. Attachment shall be effected by actual seizure, and the property so attached shall be kept in safe custody in or near the village chauri. Provided that no more property shall be attached under this Rule than shall seem to the Village Munsif reasonably sufficient at a fair valuation to cover the amount of the decree remaining unsatisfied.

The Village Munsif may also, if he thinks, fit cause the decree to be executed by attachment of a portion not exceeding a moiety of the salary of the judgment-debtor if he be in the receipt of a salary. In such case the attachment shall be made by a written order addressed to the officer or person who disburses the salary requiring him to withhold every month such portion as the Village Munsif may direct and to pay the same to the judgment-creditor. Such order may be issued by the Village Munsif, whether the officer or person who disburses the salary is resident and the salary is payable within his local jurisdiction or not.

22. All claims to attached property shall be inquired into without delay and summarily determined by the Village Munsif after hearing such evidence as may be tendered by the claimant and the decree-holder respectively, and after examining, if necessary, the judgment-debtor.

23. If the attached property is subject to speedy and natural decay or when the expense, of keeping it in custody shall exceed its value, it may be sold at once, by order of the Village Munsif.

24. In all other cases if the judgment-debtor does not tender the amount of the decree within three days from the date of attachment, the Village Munsif shall issue a notice of the sale of the property, to be posted up in a conspicuous place in the chauri where the property is kept, specifying the property to be sold, the amount for which the sale is ordered, and the day and hour of sale.

25. Except in the case mentioned in Rule 22 no sale shall take place till after the expiration of at least ten days from the date on which the notice has been posted upon the chauri.

26. If the Village Munsif is himself an officiating Patel and if the property is within the limits of his jurisdiction, as such, he shall himself order and superintend the attachment and the conduct of the sale. In any other case the Village Munsif shall direct his orders for the attachment and sale to an officiating Patel in whose jurisdiction, as such, the property is, and it shall be the duty of such Patel to carry out the execution under the orders of the Village Munsif. In towns which are the head quarters of a Civil Court the Village Munsif may, when so authorized by the District or Special Judge, direct his orders to the Nazir of such Court, whose duty it will be to execute such orders accordingly.

27. The officer conducting the sale may in his discretion for sufficient reason adjourn the sale, reporting the fact to the Village Munsif, who may pass such orders as may seem just as to the renewal of the sale.

28. The proceeds of the sale shall be made over by the Village Munsif to the decree-holder to the extent necessary to satisfy his decree, any surplus being handed over to the judgment-debtor. Receipts shall be taken for any payment made under this Rule: and the necessary entry as to satisfaction shall be made in the Register.

29. The Village Munsif shall be entitled to employ the agency of the inferior village servants for carrying out his orders in any suit or execution matter pending before him under the Act : and it shall be the duty of the Revenue and Police Patels and Kul-karnis throughout the local area of his jurisdiction to render him all the assistance in their power in connection with the discharge of his duties under the Act.

30. No costs shall be awarded by any Village Munsif.

31. The Village Munsif shall be entitled to hold his Court in the village chauri. 1879., G. G. 1001; 1880, G. G. 708.]

CHAPTER VI.—OF CONCILIATION.

Appointment
of Concilia-
tors.

38. The Local Government may, from time to time, appoint any person other than an officer of Police to be a Conciliator and may cancel any such appointment.

Every Conciliator appointed under this section shall be appointed only for a term not exceeding three years, but may on the expiration of the period for which he has been appointed be again appointed for a further term not exceeding three years.

Every Conciliator so appointed shall exercise his functions under this Act in respect of matters affecting agriculturists residing within such local area as the Local Government may, from time to time, prescribe.

The expression 'officer of police' in this section shall not be deemed to include a police patel appointed under Bombay Act No. VIII of 1867 (*for the the Regulation of the Village Police in the Presidency of Bombay*).

[Printed as amended by Act XXIII of 1881. A Conciliator appointed under this Act is not a Court. *Manohar v. Gebiapa*. I. L. R., 6 Bom. 31. A Conciliator under the Dekkhan Agriculturists Relief Act may be re-appointed more than once. *Dattaram v. Bhica*. 1887, P. J., 246.]

Matters
which may
be brought
before Con-
ciliator.

39. When any dispute arises as to, or there is a prospect of litigation regarding, any matter within the cognizance of a Civil Court between two or more parties one of whom is an agriculturist residing within any local area for which a Conciliator has been appointed, or when application for execution of any decree in any suit to which any such agriculturist is a party, and which was passed before the date on which this Act comes into force, is contemplated, any of the parties may apply to such Conciliator to effect an amicable settlement between them.

[See notes to s. 46.]

Procedure
thereupon.

40. If the application be made by one of the parties only, the Conciliator shall take down, or cause to be taken down, in writing a concise statement of the applicant's case, and shall thereupon, by summons or by such other means as he deems fit, invite the person against whom such application is made to attend before him at a time and place to be fixed for this purpose, and shall direct the applicant also to be present at such time and place.

If such person fails to appear at the time first fixed, the Conciliator may, if he thinks fit, from time to time extend the period for his appearance.

Day for attendance may from time to time be postponed.

A Conciliator empowered by the Local Government in this behalf may, instead of inviting, direct the person against whom the application is made to attend at the time and place either first or subsequently fixed.

If an applicant, or a person against whom an application is made, fails to be present or attend at the time and place specified in a direction proceeding from a Conciliator under this section, he shall be deemed to have committed an offence under section 174 of the Indian Penal Code.

[Printed as amended by Act XXIII of 1886.]

41. Whenever all the parties are present, the Conciliator shall call upon each in turn to explain his case regarding the matter in question, and shall use his best endeavours to induce them to agree to an amicable settlement or to submit such matter to arbitration.

When all parties appear, Conciliator to endeavour to reconcile them, Conciliator to hear statements of witnesses, &c.

42. The Conciliator shall hear but shall not record the statement of any witness, and shall peruse any book of account or other document produced by the parties, or so much thereof as may be necessary, and, if any party or witness consents in writing to affirm any statement upon oath in any form not repugnant to justice or decency and not purporting to effect any third person, shall provide for such oath being duly taken in the presence of all the parties.

43. If on the day on which the case is first heard by the Conciliator, or on any subsequent day to which he may adjourn the hearing, the parties come to any agreement, either finally disposing of the matter or for referring it to arbitration, such agreement shall be forthwith reduced to writing, and shall be read and explained to the parties, and shall be signed or otherwise authenticated by the Conciliator and the parties respectively.

Any agreement arrived at to be reduced to writing.

Explanation.—A Conciliator may be appointed arbitrator under this section.

[See note to s. 44. Agreements of the kind described in this section are exempted from stamp duty. 1889 G. G. 1009. Order of Sub-Judge and Special Judge refusing to file an agreement reversed, the agriculturists not having shown cause even within extended time given them. The inquiry under the Government Notification must be consistent with s. 44. That Notification authorizes a Sub-Judge to refuse to file an agreement only if it is not an agreement within s. 43. *Ratanji v. Nama*. 1889. P. J., 21.]

44. When the agreement is one finally disposing of the matter, the Conciliator shall forward the same in original to the Court of the Subordinate Judge of lowest grade having jurisdiction in the place where the agriculturist who is a party thereto resides;

Procedure when agreement finally disposes of case.

and shall at the same time deliver to each of the parties a written notice to show cause before such Judge, within one month from the

date of such delivery, why such agreement ought not to be filed in such Court.

The Court which receives the agreement shall, after the expiry of the said period of one month, unless cause has been shown as afore-said, order such agreement to be filed; and it shall then take effect as if it were a decree of the said Court passed on the day on which it is ordered to be filed and from which no appeal lies.

The Court may in any case, for reasons to be recorded by it in writing, from time to time extend the period of one month allowed for showing cause under this section.

[Printed as amended by Act XXIII of 1881 and XXII of 1882. See notes to s. 43.]

For form of the register of agreements under this and s. 45. see p. 468 High Court Rule Book 1892.

Immediately on receiving from a conciliator a document purporting to be an agreement under section 43 of the Dekkhan Agriculturist's Relief Act, the Subordinate Judge shall scrutinize such document, and if he sees reason to think that it does not constitute a legal agreement or that it does not finally dispose of the matter in dispute, he may of his own motion summon the parties to such document on a day to be fixed before the expiry of the period mentioned in Section 44 of the said Act, and if after such enquiry as he may deem requisite he finds that the said document does not constitute an agreement within the meaning of Section 43, he shall return it to the Conciliator from whom he received the same, and such Conciliator shall thereupon be bound to furnish on demand to the parties or either of them a certificate under section 46. 1881 G. G. 232.

The notice that the conciliator has to deliver to each of the parties is not necessarily to be delivered by him in person. Therefore the rule that such notice should be served through a Subordinate Judge, framed by the Local Government under section 49 of the Act and published at page 682, 1882 G. G. is not *ultra vires*, and a notice so served is good notice. *Jotiram v. Devba*. I. L. R., 10 Bom. 189.

An order directing an agreement to be filed without service of notice contemplated by s. 44 of the Dekkhan Relief Act is an *ex parte* order and might, with regard to s. 74 of the Act, be set aside under ss. 108 and 647 of the Civil Procedure Code. It is a condition precedent for the exercise of the Court's jurisdiction under s. 44. that such a notice should have been given *Murari v. Hari*. 1887, P. J. 39.

An arrangement which provides for a plaintiff's claim to be paid the mortgage debt at once or to have the property sold being settled by an agreement for payment of the debt in ten annual instalments with power to plaintiff in default of payment of any instalment to take possession and retain possession until the debt has been satisfied out of the produce of the estate, is within the contemplation of s. 44 and is an amicable settlement. The expression "finally disposing of the matter" in ss. 43 and 44 means no more than the expression "amicable settlement" in ss. 41 and 46. The provision for payment of interest on any instalment remaining unpaid does not render the agreement an illegal one on the ground that the entire sum to be so paid in instalments is partly made up of interest. *Vasudev v. Narayan*. I. L. R., 9 Bom. 15.

When a conciliation agreement was filed after the date of the first instalment due under it, *held* that the decree contemplated by the section cannot be read as directing the first instalment to be paid on a date anterior to the filing of the agreement, that is, to the date of the decree; that, therefore, the only date from which time can run for the purposes of Art. 179 of sch. II of Act XV of 1877 is the date of the decree. *Madhavrao v. Vithu*. 1886 P. J., 162.

An agreement to accept in full satisfaction of a claim of Rs. 59-15-1 recoverable under a decree a sum of Rs. 40 to be paid by annual instalments of Rs. 4 each and in default of regular payment of instalments to recover the full amount of the decree by exe-

cutting it, is an agreement 'finally disposing of the matter.' *Lakhmichand v. Arjuna*. I. L. R., 6 Bom., 77.]

45. When the agreement is one for referring the matter to arbitration, the Conciliator shall forward it to the Court having jurisdiction in the matter, and such Court shall cause it to be filed and proceed thereon in manner provided by sections 523 and 524 of the Code of Civil Procedure.

Procedure where agreement is for reference to arbitration.

[See notes to s. 44.]

46. If the person against whom any application is made before a Conciliator cannot after reasonable search be found, or if he refuses or neglects, after a reasonable period has been allowed for his appearance, to appear before the Conciliator, or if he appears but the endeavour to induce the parties to agree to an amicable settlement or to submit the matter in question to arbitration fails, the Conciliator shall, on demand, give to the applicant, or when there are several applicants to each applicant, a certificate under his hand to that effect.

Certificate to be given to applicant if conciliation fails.

[See notes to s. 44. A certificate obtained from a conciliator who was not one appointed for the local area where the agriculturist applicant was residing as required by s. 39, but was appointed for the local area where the land was situated is not a certificate as required by s. 46 or 47 nor can it avail for purposes of s. 48. *Sayad Nyamtula v. Nana*. I. L. R., 13 Bom. 424.]

47. No suit, and no application for execution of a decree passed before the date on which this Act comes into force, to which any agriculturist residing within any local area for which a Conciliator has been appointed is a party, shall be entertained by any civil Court unless the plaintiff produces a certificate in reference thereto obtained by him under section forty-six within the year immediately preceding.

Suit, or application for execution, not to be entertained by civil Court unless such certificate is produced.

Explanation.—The expression 'civil Court' in this section does not include a Mamlatdar's Court under Bombay Act No. III of 1876 (to consolidate and amend the law relating to the powers and procedure of Mamlatdars' Courts).

[Printed as amended by Act XXIII of 1881 and XXII of 1882.

See notes to s. 46.

Where on the face of the plaint it does not appear that the defendant is an agriculturist the suit must be entertained for the purpose of determining whether he is so or not. If it should turn out that he is, the Court should not proceed further until the necessary certificate is produced. *Raghunath v. Anant*. 1882, P. J. 368.

The mere fact that the defendant describes himself in the instrument on which the suit was brought, as a trader, would not of itself estop him from pleading at the trial that he was an agriculturist and entitled to the protection of this Act. There must be evidence to show that describing himself as a trader he represented himself as a trader and intended that that representation should be acted on by the plaintiff. *Kadappa v. Martanda*. I. L. R., 17 Bom. 227.

An application under Section 525 of the Civil Procedure Code to file an award made without the intervention of a Court is not covered by this section and so no certificate is necessary in respect thereof. *Gangadhar v. Mahadu*. I. L. R., 8 Bom. 20.

The necessity of procuring a certificate under this section is not limited to suits specified in Section 3 but extends to all matters within the cognizance of a Civil Court. *Durgaram v. Shripati*. I. L. R., 8 Bom. 411.]

Allowance to be made in period of limitation.

48. In computing the period of limitation prescribed for any such suit or application the time intervening between the application made by the plaintiff under section thirty-nine and the grant of the certificate under section forty-six shall be excluded.

[Printed as amended by Acts XXIII of 1881, and XII of 1891. See notes to section 46.

The time occupied before a conciliator in a suit in which no certificate was necessary cannot be deducted. *Ganesh v. Babaji*. 1883, P. J., 238.]

Local Government to make rules.

49. The Local Government may from time to time make rules—

(a) regulating the procedure before Conciliators in matters not provided for by this Act ;

(b) fixing the charges to be made by Conciliators for anything done by them under this chapter ; and

(c) determining what record and accounts shall be kept by Conciliators and what returns shall be framed and furnished by them.

[See notes to s. 44.

When the right to claim a certificate under Section 46 accrues, the prescribed fee shall be paid and the certificate demanded within ten days from the accrual of such right, otherwise the conciliator shall dismiss the application. 1880. G. G. 1072.

The delivery of the written notice referred to in Section 44 of the Act shall be effected through the Subordinate Judge, to whom it should be sent for service by the Conciliator at the same time that he forwards the agreement. The Subordinate Judge immediately on receipt of the agreement and of the written notice, shall cause the latter to be duly served on the party named therein, and the date of such service shall be endorsed by the Subordinate Judge upon the agreement. 1882. G. G. 682.

The following Table of charges to be made by Conciliators and the Rules as to the record and accounts to be kept by them are framed under this section :—

A—Table of Charges.

- | | |
|--|---|
| (1) For forwarding an agreement under Section 44 to the Court. | { One-half per cent. of the amount of value or the subject-matter of the agreement. |
| (2) For Ditto. ditto. under Section 45. | { One-half per cent. of the amount or value of the subject-matter of the agreement; provided that the charge shall be in no case less than four annas or more than Rs. 5. |
| (3) For granting a Certificate under Section 46. | { Four annas. |

The above charges shall not be payable in cash but in Court-fee labels which shall be affixed to the documents in respect of which the charges are respectively payable.

If the percentage calculated according to item No. 1 or 2 of the foregoing table amounts to a sum which cannot be exactly represented by Court-fee labels of procurable values, the charge shall be enhanced to the nearest amount which can be so represented.

B—Every Conciliator appointed under the said Act shall keep a General Register in the following form :—

1	2	3	4	5	6	7	8	9	10	11	12	13
Serial Number.	Date of application.	Name, caste, residence and occupation of the person against whom the application is made.	Name, caste, residence and occupation of the person against whom the application is made.	Concise statement of the case.	Date and place fixed for parties to appear.	Date of actual appearance.	Result of the endeavour for reconciliation.	Date of forwarding agreement or reference to arbitration to Civil Court.	To what Court forwarded.	Date of certificate, if any, under Section 46 and to whom granted.	Remarks.	Signature of Conciliator.

Explanations.

(1) When an application is made to a Conciliator he should immediately fill in the first five columns, giving each application a serial number in the order of its presentation ; the concise statement of the case required to be taken down in writing by section 40 of the Act should be written in the fifth column.

(2) If all the parties to a dispute apply jointly at the same time to a conciliator, their names should be entered in column 3 as joint applicants, and columns 4, 6 and 7 need not be filled up.

(3) In the 6th column the adjourned date or dates, if any, should also be shown below the date first fixed, and an entry should be made in the same column showing the mode adopted for securing the presence of the opposite party, whether by summons, message, personal oral communication, or as the case may be.

(4) If the opposite party fails to appear on the date first fixed or within the time, if any, subsequently extended, this fact should be noted in column 7.

(5) In column 8 if an agreement finally disposing of the matter is arrived at, an abstract of such agreement should be given, or if a reference to arbitration is agreed to, the name of the arbitrator should be entered, or if the endeavour to bring about an amicable settlement fails, the fact should be recorded.

(6) The date of the certificate, if any, granted under section 46 should be particularly noted in column 11.

(7) If cross-applications in the same matter are made at different times, the fact should be noted by a cross-reference in the column of remarks. Any fact connected with the application or dispute which the Conciliator thinks it worth while or important to record may be noted in this column.

(8) The Conciliator should attach his signature in the last column, when the application is finally disposed of by him.

C—Every Conciliator shall also keep an account of all fees received by him in the following form :—

1	2	3	4	5	6	7
Date.	No. of appli- cation as per General Re- gister.	Amount or value of the subject-mat- ter.	Fee from whom receiv- ed.	Fee for what purpose paid.		
				For forward- ing an Agree- ment to the Court under section 44.	For forward- ing an Agree- ment under section 45.	For granting a certificate under section 46.
				Rs.	a.	Rs.	a.	Rs.	a.
Monthly Total...						

1879 G. G. 999.

A charge at the following rates shall be levied by Conciliators from every applicant in consequence of whose application a summons is issued under section 40 (namely):—

if only one person be summoned.....two annas;

if two or more persons be summoned.....two annas for the first person and one anna
for each of the other persons.

The said charge shall be levied by means of Court-fee labels which shall be attached to the applications in respect of which the charges are respectively made and shall be cancelled by the Conciliators previous to the issue of summonses. 1884. G. G. 784.

CHAPTER VII.—SUPERINTENDENCE AND REVISION.

50. The District Judge shall inspect, supervise and control the proceedings, under chapter II, chapter IV and chapter VI of this Act, of all Subordinate Judges and the proceedings of all Village-Munsifs and Conciliators.

[Printed as amended by Act XXII of 1882.]

51. The District Judge may—

(a) transfer any application pending before a Conciliator to the file of any other Conciliator;

(b) transfer to his own file any suit or other matter pending before the Court of any Subordinate Judge under Chapter II, Chapter IV or Chapter VI of this Act, and may dispose of the same as if he were a Subordinate Judge; or

(c) stay the proceedings in any such suit or matter, and sit together with such Judge as a Bench to dispose of such suit or matter in accordance with the provisions of this Act.

If the members of any Bench sitting under this section differ in opinion, the opinion of the District Judge shall prevail.

[Printed as substituted by Act XXII of 1881 and amended by Act XXII of 1882.]

**District
Judge to
inspect, &c.**

District Judge may withdraw case from Conciliator or Subordinate Judge.

or sit with
Subordinate
Judge as a
Bench for
trial of any
case.

52. The Local Government shall appoint an Assistant or Sub-ordinate Judge to inspect and supervise, subject to the control of the District Judge, the proceedings of all Subordinate Judges, under chapter II, chapter IV and chapter VI of this Act, and of all Village-Munsifs and Conciliators in each of the said districts of Puná, Satára, Sholapur and Ahmadnagar:

Appointment of Assistant or Subordinate Judge to aid District Judge.

Provided that, if the Local Government thinks fit, the same Assistant or Subordinate Judge may be so appointed for two or more such districts.

Any Assistant or Subordinate Judge appointed under this section may in any district for which he is so appointed, if the District Judge so directs, exercise the powers of the District Judge under section fifty-one of this Act, and transfer any suit under section twenty-five of the Code of Civil Procedure.

[Printed as amended by Act XXII of 1882.]

53. The District Judge may, for the purpose of satisfying himself of the legality or propriety of any decree or order passed by a Subordinate Judge in any suit or other matter under chapter II, chapter IV or chapter VI of this Act, and as to the regularity of the proceedings therein, call for and examine the record of such suit or matter, and pass such decree or order thereon as he thinks fit ;

Of revision.

and any Assistant Judge or Subordinate Judge appointed by the Local Government under section fifty-two may similarly, in any district for which he is appointed, call for and examine the record of any such suit or matter, and, if he see cause therefor, may refer the same, with his remarks thereon, to the District Judge, and the District Judge may pass such decree or order on the case as he thinks fit:

Provided that no decree or order shall be reversed or altered for any error or defect, or otherwise, unless a failure of justice appears to have taken place.

[Printed as amended by Act XXII of 1882.]

Notice to parties is not necessary before the power of revision under s. 53 of the Act can be exercised ; for, that section does not expressly provide for such notice and s. 74 only makes the Civil Procedure Code applicable to suits and proceedings before the Subordinate Judge, and under s. 75 no rule regarding notice has been made by the Local Government. *Vishwanath v. Aha*, 1886, P. J., 11.

Though s. 53 does not provide for a notice to the other side, still justice requires that the other side should also be heard. *Rupchand v. Balvant*, 1. L. R., 11 Bom. 591.

A special Judge can interfere with an improper as well as an illegal decree or order. His revisional jurisdiction resembles that of the High Court under the Code of Criminal Procedure and ought, if it be held to include the power of setting aside the decision of the lower Court on the facts, to be exercised only in very exceptional cases. *Shidhu v. Ball*, 1. L. R., 15 Bom. 180.

The Special Judge has the power under this section to remand a case. *Kondumal v. Kariba*, 1880, P. J. 1.

When a Special Judge appointed under section 54 calls for and examines the record of a suit under this section he can legally do so only for the purpose of satisfying himself of the legality or propriety of any decree or order passed by a Sub-Judge in any suit or other

matter under Chapter II, IV or VI of the Act and as to the regularity of the proceedings therein. It is not competent to him to allow a plaintiff to withdraw his suit with liberty to bring a new one on an application for the purpose made for the first time before him not complaining of any illegality or impropriety in the decree of the Sub-Judge but alleging that the plaintiff had made some mistake in bringing the suit. *Muktaji v. Manaji*. I. L. B., 12 Bom. 684.

Where a redemption suit was admitted within the jurisdiction of the Court of first instance under this Act, *held* that it was within the revisional power of the Special Judge and none the less so because the Special Judge while confirming the lower Court's decree incidentally found that the mortgage sued on did not really exist, and that another one existed of such an amount that a redemption suit in respect of it would not have fallen within chapter II. *Bhagvant v. Rango*. 1884, P. J., 30.

The conduct of the proceedings before a District or Assistant Judge sitting in revision is within his own discretion. The granting of a review, therefore, on the ground of a mistake as to the nature of defendant's income is a most reasonable exercise of that discretion. *Badaricharya v. Ramchandra*. 1893, P. J., 35.

An execution order in a suit to which Chapter II of this Act applies is an order in the suit, and therefore subject to revision under s. 53. *Manohar v. Bhavani*. 1885, P. J., 90.]

Special
Judge.

54. The Local Government from time to time may, and if the Government of India so direct shall, appoint an officer, as Special Judge, to discharge in the place of the District Judge all the functions of the District Judge under this Act in respect of the proceedings of all Subordinate Judges, Village-Munsifs and Conciliators, and may cancel any such appointment.

Such Special Judge shall not, without the previous sanction of the Government of India, discharge any public function except those which he is empowered by this Act to discharge.

If any conflict of authority arises between the Special Judge and the District Judge, the High Court shall pass such order thereon consistent with this Act as it thinks fit.

No appeal shall lie from any decree or order passed by the District Judge under this chapter, or by the Special Judge, or by an Assistant or Subordinate Judge appointed under section fifty-two, or by a Bench, in any suit or proceeding under this Act.

But the District Judge or Special Judge, or an Assistant or Subordinate Judge or Bench, may refer to the High Court, under section 617 of the Code of Civil Procedure, any question of law, or usage having the force of law, or the construction of a document, arising in any case pending before him or it under this chapter as if that case were a suit or an appeal pending before him or it; and in respect of every reference so made, sections 618 to 621 of the said Code, both inclusive, shall apply:

Provided that no reference shall be made under this section by any Assistant or Subordinate Judge, or by any Bench of which the District Judge or Special Judge is not a member, without the previous sanction of the District Judge or Special Judge, as the case may be.

[Printed as amended by Act XXII of 1882.]

See notes to s. 53. The proviso to this section has no application to references under s. 617 of the Civil Procedure Code by a Subordinate Judge not appointed under s. 52. The previous sanction of the Special Judge is not, therefore, necessary to a reference made by a Subordinate Judge in a case not tried by him under Chapter VII, and it is not competent to the Special Judge to refuse to forward such a reference. *Rango v. Kalu*, 1885. P. J., 221.]

CHAPTER VIII.—REGISTRATION BY VILLAGE-REGISTRARS.

55. The Local Government may, from time to time,—

(a) appoint such persons as it thinks fit, whether public officers or not, to be Village-Registrars for such local areas as it may, from time to time, prescribe;

Appointment
of Village-
Registrars.

(b) direct the Village-Registrar for any local area to discharge the functions of a Village-Registrar for any other local areas concurrently with the Village-Registrars of such other local areas; and

(c) delegate to any person, by name or in virtue of his office, the powers conferred on it by this section;

and may cancel any such appointment, direction or delegation.

56. No instrument which purports to create, modify, transfer, evidence or extinguish an obligation for the payment of money or a charge upon any property, or to be a conveyance or lease, and which is executed after this Act comes into force by an agriculturist residing in any local area for which a Village-Registrar has been appointed, shall be admitted in evidence for any purpose by any person having by law or consent of parties authority to receive evidence, or shall be acted upon by any such person or by any public officer, unless such instrument is written by, or under the superintendence of, and is attested by, a Village-Registrar :

Instruments
executed by
agriculturist
not to be
deemed valid
unless executed
before
a Village-
Registrar.

Provided that nothing herein contained shall prevent the admission of any instrument in evidence in any criminal proceeding, or apply to any instrument which is executed by an agriculturist merely as a surety, or to any instrument required by section 17 of the Indian Registration Act, 1877, to be registered under that Act.

[Printed as amended by Act XXIII of 1881 and XXIII of 1886. See notes to s. 72.]

This section not only affects the power of giving a document not executed in conformity with its provisions in evidence but it is intended to invalidate such a document; the proviso added by Act XXIII of 1886, Sect. 9 is not therefore retrospective as it involves a change of existing rights. *Javanmal v. Muktabai* I. L. R., 14 Bom 516.

A balance of account signed by an agriculturist is an instrument which purports to evidence an obligation for the payment of money and cannot, therefore, be received in evidence unless it is written and attested as provided for by this section. *Ranji v. Dhonde*. I. L. R., 6 Bom. 729.

Where, of two defendants the name of one an agriculturist defendant was struck out, held that a khata which was executed by both and contained an acknowledgment of liability to plaintiff and was also an agreement to pay interest was inadmissible in evidence for want of registration to enforce a liability against one who was not an agriculturist. *Dinsha v. Hargovindas*. I. L. R., 18 Bom. 215.]

57. When any persons intend to execute any instrument to which section fifty-six applies, all such persons shall appear before

Such instru-
ments to be
written by, or

under the
superinten-
dence of, a
Village-Re-
gistrar and
executed in
his presence.

the Village-Registrar appointed for the area in which the agriculturist, or when there are several agriculturists intending to execute the instrument, any one of such agriculturists, resides, and such Registrar, after satisfying himself in such manner as he deems fit as to the identity of the intending executants and receiving the fee (if any) prescribed by the Local Government in this behalf, and the stamp (if any) which may be required by law, shall write the instrument, or cause the same to be written under his superintendence; and after reading the same aloud, or causing it to be so read, in the hearing of the intending executants, shall require them to execute it in his presence.

Attestation
of such in-
struments.

Every instrument so written and executed shall at the time of execution be attested by the Village-Registrar; and also, if any of the executants thereof is unable to read such instrument, by two respectable witnesses.

For the purposes of this section every executant of any such instrument shall appear in person before the Village-Registrar; but every other party thereto may appear either in person or by any agent, being his relative, servant or dependent, whom he has duly furnished with a power-of-attorney, executed and authenticated in such manner as the Local Government may, from time to time, by rule prescribe, authorizing him to appear and act on his behalf.

[Printed as substituted by Act XXIII of 1881, and amended by XXII of 1882.]

Registration
of instru-
ments by
Village-Re-
gistrars.

58. Every Village-Registrar shall keep a register of instruments executed before him in such form as shall, from time to time, be prescribed by the Inspector-General of Registration.

As soon as all the intending executants have executed any instrument before a Village-Registrar, he shall make a copy of it or cause a copy of it to be made in his register, and shall deliver the original instrument to the party entitled to the custody of the same.

Previous to delivery, the original instrument shall be endorsed under the Village-Registrar's signature with the date of registration, the name and residence of the Village-Registrar and the volume and page of the register in which the instrument has been registered.

A certified copy of any entry in the register shall be granted by the Village-Registrar, free of charge, on the application of any party to the instrument to which the entry relates, or of his agent or representative, and the copy shall be admissible as evidence of the contents of the instrument.

[Printed as amended by Acts XXIII of 1881, and XXIII of 1886. Applications under the 4th para must be in writing. 1886. G. G. 1079.]

Considera-
tion to be
fully stated
in every in-

59. In every instrument written by, or under the superintendence of, the Village-Registrar, the amount and nature of the consideration, if any, shall be fully stated.

The Village-Registrar shall also endorse upon the instrument a note under his hand, recording whether or not the transfer of the consideration stated therein, or of any part thereof, took place in his presence.

If the instrument modifies, or wholly or partly supersedes, a previous instrument, such previous instrument shall be produced before the Village-Registrar and shall be fully described in the instrument to be executed, and shall be marked by the Village-Registrar under his hand for identification.

60. Every instrument executed and registered in accordance with the foregoing provisions shall be deemed to have been duly registered under the provisions of the Indian Registration Act, 1877; and no instrument which ought to have been executed before a Village-Registrar but has been otherwise executed shall be registered by any officer acting under the said Act, or in any public office, or shall be authenticated by any public officer.

61. The Inspector-General of Registration shall exercise, by himself and his subordinates, a general superintendence over all Village-Registrars, and may, from time to time, with the previous sanction of the Local Government, make rules consistent with this Act for regulating their proceedings and for providing for the custody of their records.

[The following rules have been framed under this section.]

I.—PRELIMINARY.

Definitions.

1.—In these Rules:

- (a) "Registrar" means the Registrar of a District appointed under the Indian Registration Act, 1877;
- (b) "Táluka Village Registrar" means a Village-Registrar having concurrent jurisdiction over the whole táluka of which he is Táluka Village Registrar and who is also a Sub-Registrar under the Indian Registration Act, 1877;
- (c) "Special Village Registrar" means a Village Registrar of a circle consisting of one or more villages.

N. B.—Táluka Village Registrars may be also Special Village Registrars of Circles.

II.—RECORDS.

(a) Register Book.

2. The Register prescribed by section 58 of the Deccan Agriculturists' Relief Act, 1879 shall be a book kept in the form of Appendix A.

Form of Register Book.

3. A Village Registrar before bringing a new Register Book into use shall count the pages, and satisfy himself that the number thereof corresponds with that given in the certificate on the title page. If the number be found correct, he shall certify to that effect on the title page.

Examination of new Register Books.

If there be a discrepancy, he shall return the book for correction to the officer from whom it was received.

4. The volumes of Register Books in each office shall be numbered in a consecutive series, which shall not terminate with the year but be carried

Numbering of the consecutive volumes of Register Books.

on perpetually. It shall not be necessary to commence a fresh volume at the commencement of a new year. When the amount of copying is great, two volumes of a Register book may be employed simultaneously, instruments bearing an even serial number being copied into one and those bearing an odd serial number into the other.

(b) Index of Register.

5. An Index of all entries in the Registers shall be prepared in the form of Appendix B. The Index shall be prepared alphabetically in each Taluka Village Registry Office, and Village Registry Office, and shall in the latter case be forwarded on or before the 5th of each calendar month by the Village Registrar to his Taluka Village Registrar.

6. It shall be the duty of the Taluka Village Registrar to arrange the Index of each of the Village Registry Offices of his Taluka circle including that of his own immediate circle in due order for binding, taking especial care that no Index sheets of one Village Registry Office are mixed up with those of another, and seeing that all sheets bearing one and the same letter are, for each Village Registry Office, brought together for the year according to the order of their preparation, before being bound. A blank page should be inserted in each Index file, before being bound, at each place where the Index for one Village Registry Office terminates and that of another commences. At the end of the year the Index for the Taluka shall be bound into Volumes.

7. The rules for the time being applicable to the Indexes of the Registers kept under Certain rules under Act the Indian Registration Act, 1877, shall be followed in the III., 1877, to be observed in preparation of the Index under these rules so far as regards : preparing the Index.

- (a) the method of indexing and transliterating names of villages ;
- (b) the use of the loose sheets supplied for the preparation of the Index.

(c) Claim-Note and Day Books.

8. A Claim-Note Book in the form of Appendix C and a Day-Book in that of Appendix D shall be kept by each Village Registrar.

If the registration of an instrument is completed on the day for the attestation of the instrument and before the claiming party under such instrument leaves the office, no claim-note from this book need be granted to such party.

It shall be the duty of the Village-Registrar, if possible, to complete the registration of an instrument on the same day on which such instrument is prepared and attested by him.

If, however, when a party claiming under an instrument leaves the office, the registration of such instrument is not complete, the Village Registrar shall grant to such party a claim-note, with the amount of fee endorsed thereon, which shall afterwards be taken back and filed when the instrument to which it relates is delivered to the party who claims it or to such other person, if any, as he has nominated in writing in that behalf in the claim-note, and the signature of such party shall be taken in the Day-Book acknowledging receipt of such instrument.

(d) Cash Book.

9. Every Taluka Village Registrar and Village Registrar shall keep a Cash Book in the form given in Appendix E, and in this book shall be entered all fees paid for registration, &c.

(e) General Provisions.

10. The office of every Taluka Village Registrar shall be the local office of issue for Local offices of issue for books, forms &c., to the other Village Registrars of the taluka. books and forms. in which such office is situate.

The office of each Taluka Village Registrar shall be a central office of record for the Village Registry Offices of the taluka, and the Register Books of the latter Village Registry offices shall be forwarded to the said Taluka Village Registrar for the purpose of being recorded as they from time to time become complete; Transfer of records to office of Taluka Village Registrar.

Subject to the sanction of the Inspector-General of Registration, a Cash or Day Book may be destroyed after a lapse of six years from the date of the final entry appearing therein."

11. All Village Registrars except Taluka Village Registrars shall hold their office in the chavdi of the Village, which is the head-quarters of his circle, office hours being from 11 A. M. to 5 P. M. On closing the office, the registration books, &c., shall be secured in a box or otherwise and given in charge of the Village Police for safe custody.

All Tāluka Village Registrars and Village Registrars shall provide out of the amount received by them, as remuneration whatever writing materials they may require for the work of their respective offices, excepting such blank forms and books as are supplied by Government. They shall be responsible that all instruments drawn up by them or under their superintendence are written intelligibly, legibly and distinctly, and that their records are kept neatly and in order.

12. No Village Registrar shall destroy any of the old papers of his office without having first obtained the sanction of the Registrar through the Tāluka Village Registrar.

III.—PROCEDURE.

(f) Execution and Registration of Instruments under Sections 57 and 58.

13. Village Registrars shall duly satisfy themselves of the identity of each executant, and shall receive the fee for registration before the instrument is written. They shall also pay careful attention to the requirements of the Stamp Act and the rules issued under it.

14. Every Village Registrar shall be provided under the orders of the Registrar with specimen forms of all instruments to which agriculturists are ordinarily parties. In drafting an instrument care must be taken to follow the best obtainable form, and while fully expressing the intentions of the parties, to avoid repetition or prolixity.

Above all, the language employed should be simple and clear, and the description of immoveable property, if any has to be mentioned in the instrument, should be such as to enable the property to be unmistakably identified. When the instrument relates to land to which a survey has been extended, the survey numbers shall be set forth.

The Village Registrar shall ordinarily draw up the instrument himself, and shall only employ any person to do so under his superintendence when he is prevented by an exceptional press of work, or other unavoidable cause, from drawing up the instrument himself.

When the instrument is not drawn up by the Village Registrar himself but under his superintendence, the person drawing up the instrument shall be chosen by the Village Registrar, and is in no case to be remunerated by the parties themselves but by the Village Registrar from his percentage fees.

15. When the instrument has been written, it shall be read out to all the parties by the Village Registrar and executed as provided in Section 57 on the instruments after its execution.

The Village Registrar shall then endorse upon the instrument a note in the following form:—

	Rs.	as.	p.
"Fees received for preparation and registration...	...	...	0 0 0"

Immediately below this note shall appear the endorsement of attestation required by para. 2 of Section 57 in the following form:—

"This instrument written by me [under my superintendence], after having been read aloud within his hearing, has been executed by A. B. of C. D., whom I know [of whose identity I have duly satisfied myself.] in my presence this day."

If a witness is examined as to identity, his signature and place of residence shall be taken as under:—

"I E. F. of G. H. identify A. B."

(Signature or mark of E. F.)

The endorsement shall be signed and dated by the Village Registrar; and if any of the parties to the instrument is unable to read it, the attestation by two respectable witnesses shall immediately follow that of the Village Registrar in the following form:—

"We *I. J. of K. L. and M. N. of O. P.* have witnessed the execution this day of this instrument by *A. B. of C. D.*"

(Signature or mark of *I. J. of K. L.*)

(Signature or mark of *M. N. of O. P.*)

The Village Registrar shall next endorse upon the instrument the note required by para. 2. of Section 59 as to whether or not the transfer of the consideration named therein or of any part thereof took place in his presence. This note shall be in one or other of the following forms, as the case may be:—

"*A. B. of C. D.* has in my presence this day received from *Q. R. of S. T.* the sum of Rs. (*to be entered both in figures and words*) [*the following Articles, viz. ————*], being the whole [*a part*] of the consideration stated in this instrument;"

or

"No portion of the consideration stated in this instrument has been paid in my presence to *A. B. of C. D.*"

The endorsement shall be signed by the Village Registrar.

Immediately below such declaration shall be endorsed a further note showing number of instrument and page and volume of the Register Book in which it is registered.

Finally, at the foot of all these endorsements shall be affixed the Village Registrar's signature with his official designation "*Village Registrar of ————*," and the date of such signature.

15 B.—It shall be the duty of the Village Registrar to enquire whether the instrument about to be executed will modify or wholly or partly supersede any previous instrument; and if the parties answer in the negative, the following declaration shall be endorsed on the instrument and signed by the claiming party or parties or by his or their authorized agent.

"I (*or we.*) hereby declare that this instrument does not modify or wholly or partly supersede any previous transaction or instrument."

16. Except as hereinafter provided no instrument which is intended to supersede or modify a previous instrument shall be prepared as laid down in Rules 14 and 15 unless such previous instrument has been produced in accordance with para. 3 of Section 59 before a Village Registrar, who shall, on its production, write upon it the following note:—

"This instrument has been modified [*wholly or partly superseded*] by instrument No.— of 18 executed in my presence by *A. B. of C. D.* in favour of *Q. R. of S. T.*, and attested by me this day."

On the new instrument which modifies or supersedes the previous instrument the Village Registrar shall write, at the top of the document, immediately over the stamp impression, if there be any, the following note:—

"The instrument dated ———— executed by *A. B.* in favour of *Q. R.*, which this instrument modifies [*supersedes*] has been produced before me this day, and a note of such modification [*supersession*] has been endorsed by me thereon."

Provided that the writing of this note shall not dispense with the necessity of a full description of the old instrument being contained in the new one as required by Section 59.

If in any case it be established to the satisfaction of a Village Registrar that a previous instrument of the nature of that named in this rule has been lost or destroyed, or for other sufficient reason cannot be produced, he shall record on the new instrument in lieu of the last-mentioned note, a note to the following effect:—

"It has been established to my satisfaction that the instrument dated ———— executed by *A. B.* in favour of *Q. R.*, which this instrument modifies [*supersedes*] has been (*here state why the instrument cannot be produced*), and cannot therefore be produced before me."

To each of the above notes the Village Registrar shall attach his signature and official designation, together with the date of signature.

17. In ordinary cases all instruments shall be drawn up and registered at the office of the Village Registrar authorised to prepare the same. But on special cause being shown such officer may attend at the residence of any person desiring to have any instrument prepared and shall charge an additional fee as laid down in the Fee Table prescribed under Section 62.

(g) Provisions applicable to registration by Village Registrars under Section 58.

18. If in writing an instrument it has been found necessary to make any corrections in the nature of erasures, interlineations, &c., the same shall be initialled by the Village Registrar and clearly noted at the end of the instrument immediately above the signatures of the executants.

19. If in any case the space afforded by a single piece of paper is found insufficient to contain all the writing of an instrument and it is necessary to attach an extra piece or pieces thereto, the Village Registrar shall write his signature across the junction of the two or more pieces of paper of which the instrument consists both on the front and on the reverse side and make a note in the Register Book at the foot of the entry of how many pieces of paper in addition to the stamp paper the instrument consists.

20. A Táluka Village Registrar who registers any instrument in the exercise of concurrent jurisdiction or the Village Registrar when registering document relating to immoveable property situate either wholly or partly in some circle other than his own shall, on such registration being completed, forward to the Village Registrar within whose circle the property affected by the instrument is situated, or in case of instrument relating to moveable property to the Village Registrar of the circle in which the executant or executants of such instrument resides or reside, or if the property be situated or executants reside in different circles, to the Village Registrars of each such circle a memorandum of instrument so registered in the Form of Appendix F. These memoranda shall be filed in the Village Registrar's office to which they may be sent for two calendar years, subsequent to which period they may, with the sanction of the Registrar through the Táluka Village Registrar, be destroyed.

21. In copying an instrument into the Register Book the endorsements prescribed by Rules 15 and 16 shall be copied in column 2 and the contents of the instrument itself shall be copied in column 3. When the instrument is stamped, the value of the stamp and stamp vendor's endorsement appearing on the original instrument shall be copied in column 3 of the Register Book above the entry.

22. Errors, erasures, or alterations appearing in original instruments or in the endorsements thereon shall be copied into the Register exactly as they appear in those instruments or endorsements, marginal notes being written explanatory of such errors, e. g., "so in the original" or corresponding words in the Vernacular with a * over the error and a corresponding mark over the marginal entry relating thereto.

23. On the copy in the Register Book being completed, the Village Registrar having carefully compared it with the original shall certify under his signature, with his official designation attached, that it is a true copy. Any mistakes made at the time of copying shall be corrected by the words written by mistake being underlined and the correct words being written above, or by the words omitted being neatly interlineated; but the Village Registrar shall attest all such corrections in the Register Book by attaching his initials thereto and certify at the foot of the entry that these mistakes were made at the time of copying.

24. All entries in a Register Book shall be numbered in a consecutive series which shall commence and terminate with the year, a fresh series being commenced at the beginning of each year. The entries in Register Book how to be numbered and marked. serial number shall appear in column 11 being distinguished in the case of instruments relating to immoveable property by the letter A and in that of instruments relating to moveable property by the letter B.

An ink line shall be drawn from left to right across the page of the Register Book to show where one entry terminates and where the next begins; such line being drawn immediately below that portion of the copy whether in column 2 or column 3, which appears lowest down on the page. The entry relating to one instrument in one column shall in no case be made alongside of the entry relating to any other instrument in the other column.

(h) *Copies and Searches.*

25. All errors, interlineations, &c., appearing in the registered entry shall be shown in any copy granted under the fourth paragraph of section 58 in the same manner as they appear in the Register as required by Rule 22; and mistakes made in preparing the copy shall be corrected in the manner prescribed in Rule 23 for correcting mistakes when copying instrument in the Register. In certifying any copy of a registered entry a Village Registrar shall attach his full official designation thereto as well as his signature.

On furnishing a copy * as aforesaid the Village Registrar will fill in the first two columns of the Day-Book with a reference to the entry for a copy of which the application is made; he shall further enter in the fourth column the date on which the copy is granted and in the fifth column shall obtain the signature of the party or of the agent or representative to whom the copy is delivered.

26. †Subject to the payment of the fees prescribed in this behalf by Government under Section 63 Register Books and Indexes and Memoranda filed under Rule 20, shall be open to the inspection of any person applying to inspect the same, and copies of entries therein shall be given to, or may be taken by, any person applying for such copies: Provided that no Register Book or other record of a Village Registrar's Office shall be inspected by any person other than a Government officer, save in the presence of the Village Registrar, and in the place used by him as his office, and that all applications for inspection or for copies shall be in writing.

Any person permitted to inspect such records may search for any entry therein, or if he shall so desire, such search shall be made for him, as aforesaid, by the Village Registrar.

For any payment made under this rule a receipt, in the form of Appendix G, shall be granted by the Village Registrar.

(i) *Returns.*

27. At the close of each month all Village Registrars as aforesaid shall forward to the Táluka Village Registrar a statement in the form of Appendix H, showing the number of instruments registered, and all fee collections made during that month including those on account of searches and copies granted under Rule 26.

From the returns thus sent, and from the information to be gathered from the books of his own office, the Táluka Village Registrar shall prepare a general Monthly Return for the whole of the Village Registry offices of the táluka in the form of Appendix H, and shall submit the same to the Registrar, in whose office again a general District Monthly Return of the same kind shall be prepared and forwarded to the Inspector-General of Registration.

* A copy granted under paragraph 4 of section 58 is exempt from stamp-duty under the Government of India's Notification No. 10 of 8rd January 1880, published at page 40 of Part I. of the Bombay Government Gazette of the 8th inst.

† Applications made, and certified copies granted under this Rule, will be subject to the provisions of the Court Fees and Stamp Acts, independently of the copy and search fees leviable under the rules made by Government under Section 63 of the Deccan Agriculturists' Relief Act, 1879.

(j) *Remittances.*

28. Remittances on account of registration fees, &c., shall be sent as follows to the Treasury:—

by Taluka Village Registrars, to the Taluka or Petta Treasury along with the collections of the office under the Indian Registration Act, 1877;

by Village Registrars, by means of the Village Maháras, monthly to the Taluka Village Registrar, who shall immediately on receipt enter the same in his Cash Book and pay the amounts in the Treasury as ordered above.

The amounts thus remitted monthly shall be sent so as to reach the Taluka Village Registrar not later than the 25th, or in the case of Taluka Village Registry Offices where there are no Treasuries, not later than the 20th of each month; or if these dates fall upon a Sunday or gazetted public holiday, not later than the day preceding such Sunday or holiday. In March remittances may be made so as to reach the Taluka Village Registrar not later than the 31st of that month.

A remittance by a Taluka Village Registrar shall be accompanied by his Cash Book in which, on the remittance being paid in, the receipt of the Treasury Officer for the amount shall be obtained.

Remittances by Village Registrars shall be accompanied by a Chullan, which Chullan shall be countersigned by Taluka Village Registrar as acknowledgment of receipt of money and retransmitted by him to the Village Registrar in whose office it shall be filed.

(k) *Correspondence.*

29. Taluka Village Registrars shall, as regards official correspondence, be the medium of communication between the Village Registrars and the Registrars.

Where there is no post-office, correspondence from and to the offices of Village Registrars shall be sent by means of the Village Maháras, who shall be remunerated at the rate of rupee one per mensem.

References from Village Registrars, regarding matters of procedure, when the point involved is of minor importance and the Taluka Village Registrar to whom the reference is addressed entertains no doubt as to what the answer should be, may be disposed of by the latter without further reference to the Registrar. The reply of the Taluka Village Registrar to a reference of the above nature shall, however, be in the shape of advice, not in that of an order. A Register of such references, showing also the manner in which they have been disposed of, shall be kept by each Taluka Village Registrar, who shall be responsible for the exercise of due discretion in replying thereto. When in doubt on any point, the Village Registrar shall refer the matter to the Registrar.

References from Village Registrars how to be disposed of in certain cases.

30. If an original instrument, which has been executed and Registered under the provisions of section 58 of Act XVII of 1879, being unclaimed by the party entitled to the custody of the same, has remained in the custody of a Village Registrar for sixty days from the date of its registration by such Village Registrar, such Village Registrar shall forward such original instrument to the Taluka Village Registrar for safe custody.

APPENDICES OF RULES UNDER SECTION 61.

APPENDIX A.—(SEE RULE 2)

Serial Number.	Endorsements.	Copy of Instruments.

APPENDIX B.—(SEE RULE 5).

Form of Index under Rule 6 framed under Act XVII of 1879.

Name of Village in which Property is situate.*	Description of Property.	Name of Office in which Instrument is registered.	Name and Place of Residence of Executant or Executants.	Nature of Instrument and Consideration or Value.	Name and Place of Residence of Claiming Party.	Date of Registration and Reference to Register.

* N. B.—In case of instruments relating to moveables the name of village in which the executant or executants reside should be entered in column 1.

APPENDIX C.—(SEE RULE 8.)

Form of Claim-Note Book.

On production of this note by _____ the conveyance or mortgage belonging to him and attested by me this day will be delivered to him by me (or a copy of the conveyance or mortgage executed by him and attested this day will be delivered to him by me, or otherwise, as the cause may be).

Received fees as follows:—

For drawing and registering instrument

... Rs.

Copy fee

...

...

...

" "

Total ... Rs.

Village Registrar.

APPENDIX D.—(SEE RULE 8, CLAUSE 4).

N umber of Volume.	Serial Number.	Number of Copies to be granted.	Date on which Instrument returned or Copy granted.	Signatures of Executants, or their Agents acknowledging receipt of Instruments and Copies.

APPENDIX E.—(SEE RULE 9).

Form of Cash-Book.

Wednesday, 7th January 1882.

Fees on Entry No. 131 of 1882 at page 88 of Register Book—

	Rs.	a.	p.	Rs.	a.	p.
Registration..	0	4 0
Copy...	0	1 0
						0 5 0

Fees on Entry No. 132 of 1882 at page 89 of Register Book—

Registration...	..	...	...	...	0	8 0
2 Copies	...	...	...	...	0	4 0
						0 12 0

Remitted to Táluka Village Registrar or Treasury, as the case may be...1 1 0

(Signed)

A. B.,

Village Registrar of _____

APPENDIX F.

Memorandum under Rule 20 framed under Act XVII. of 1879.

Serial Number.	Copy of Endorsements.	Nature of Document.	Description and Value of Property affected by the Document.	Situation of Property.	Names of Executing parties.	Place of Residence.	Profession, Rank, or Title.	Names of Claiming Parties.	Place of Residence.	Profession, Rank, or Title.	Reference to Register.

Forwarded to the Special Village Registrar of
Date of Receipt

Date

Táluka Village Registrar

APPENDIX G.—(SEE RULE 26, CLAUSE. 3).

Received from
(search, or grant of copy, or inspection.)

Village-Registrar

APPENDIX H.

(SEE RULE 28).

Detailed Statement showing the classification of all Instruments registered.

Nature of Instruments.	IMMOVEABLES.				MOVEABLES.			
	New Transactions.	Novation of old Transactions.	Instruments partly relating to old and partly to new Transactions.	Total.	New Transactions.	Novation of old Transactions.	Instruments partly relating to old and partly to new Transactions.	Grand Total.
Deeds of Sale								
Mortgages with possession								
Mortgages without possession								
Deeds of Gift								
Leases for periods not exceeding one year...								
Leases for periods exceeding one year								
Bonds								
All other Deeds								
Total...								

Registrar of

Statement of Instruments registered during the month ending

PREPARATION AND REGISTRATION OF INSTRUMENTS AFFECTING IMMOVABLE PROPERTY.

Nature of Instrument.	The Value or Consideration exceeding Rs.												Total.	
	20.	The Value or Consideration exceeding Rs. 20 but not exceeding Rs. 50.	The Value or Consideration exceeding Rs. 50 but not exceeding Rs. 100.	The Value or Consideration exceeding Rs. 100 but not exceeding Rs. 200.	The Value or Consideration exceeding Rs. 200 but not exceeding Rs. 300.	The Value or Consideration exceeding Rs. 300 but not exceeding Rs. 400.	The Value or Consideration exceeding Rs. 400 but not exceeding Rs. 500.	The Value or Consideration exceeding Rs. 500 but not exceeding Rs. 1,000.	The Value or Consideration exceeding Rs. 1,000 and upwards.	No Value or Consideration being expressed in the Deed.	Instruments which cannot be brought under the ad valorem scale.	Copies granted to parties concerned.		
	No.	Fees.	No.	Fees.	No.	Fees.	No.	Fees.	No.	Fees.	No.	Fees.	No.	Fees.
Deeds of Sale ...														
Mortgages with possession ...														
do without possession ...														
Deeds of Gift ...														
Leases for periods not exceeding one year ...														
Leases for periods exceeding one year ...														
Bonds ...														
All other Deeds...														
Total...														

PREPARATION AND REGISTRATION OF INSTRUMENTS OF MOVABLES.

Nature of Instru- ment.	Total aggregate Value of Immoveable Property.		The Value or Consider- ation not exceeding Rs. 20.		The Value or Consider- ation exceeding Rs. 20 but not exceeding Rs. 50.		The Value or Consider- ation exceeding Rs. 50 but not exceeding Rs. 100.		The Value or Consider- ation exceeding Rs. 100 but not exceeding Rs. 200.		The Value or Consider- ation exceeding Rs. 200 but not exceeding Rs. 300.		The Value or Consider- ation exceeding Rs. 300 but not exceeding Rs. 400.		The Value or Consider- ation exceeding Rs. 400 but not exceeding Rs. 500.		The Value or Consider- ation exceeding Rs. 500 but not exceeding Rs. 1,000.		The Value or Consider- ation exceeding Rs. 1,000 and upwards.		No Value or Consideration being expressed in the Deed.		Instrument which cannot be brought under the ad valorem scale.		Copies granted to parties concerned.		Total.		The aggregate Value of Moveable Property.	
	No.	Fees.	No.	Fees.	No.	Fees.	No.	Fees.	No.	Fees.	No.	Fees.	No.	Fees.	No.	Fees.	No.	Fees.	No.	Fees.	No.	Fees.	No.	Fees.	No.	Fees.	No.	Fees.	No.	Fees.
Deeds of Sale																														
Mortgages with pos- session " without possession																														
Deeds of Gift																														
Leases for periods not exceeding one year																														
Leases for periods exceeding one year																														
Bonds																														
All other Deeds																														
Total...																														

[illegible]

EXPENDITURE.											
Nature of Instrument.	Tanka Village Registrar's Karkuna.	Commission at 20 per cent.	Commission at 5 per cent	Fixed Con-tingencies.	Furniture.	Postage.	Remunera-tion to Mahara.	Miscellane-ous.	Total.	Surplus.	Deficit.
	Amount.	Amount.	Amount.	Amount.	Amount.	Amount.	Amount.	Amount.	Amount.	Amount.	Amount.
39		40	41	42	43	44	45	46	47	48	49

Monthly Statement of Arrears in the Circle of

on the 1st

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Village or Taluka Registrar.	Number of Documents to be copied.	Number of Copies to be prepared.	Number of Documents, &c., of which registration is completed, remaining unclaimed in office.		Details of Documents in hand.
			Instruments.	Copies.	
					10 instruments from April 1882. 5 instruments from May 1882. 20 copies from May 1882. 20 do. from June 1882.

Detailed Statement showing Number of Transactions of each Nature in each Registration Circle according to Number of Column in Statement of Instrument registered during the month.

Name of Circle.	Deeds of Sale.	Mortgages with Possession.	Mortgages without Possession.	Deeds of Gift.	Leases for periods exceeding one year.	Leases for periods not exceeding one year.	Bonds.	All other Deeds.
	5 of 1, 2 of 3, 3 of 5, 5 of 8, 1 of 11, 3 of 15, 4 of 16, 1 of 20 and 1 of 24.	5 of 2, 3 of 4, 6 of 6, 1 of 7.	1 of 1, 2 of 3, 5 of 4, 7 of 9, 2 of 15 and 3 of 16.	1 of 1 and 1 of 16.	2 of 2 and 7 of 9.	1 of 3 and 8 of 5.	7 of 15, 2 of 16, 1 of 20 and 1 of 24.	1 of 1, 3 of 4, 7 of 5, 8 of 15 and 2 of 24.

N. B.—To be prepared by Taluka Village Registrar from the various returns received from Village Registrars and sent with his general statement.—1882 G. G. 857 &c.; 1885 G. G. 177, 803 & 738; 1886 G. G. 1077 & 1078; 1884 G. G. 73 & 1147; 1888 G. G. 584.]

62. Nothing in this Act shall be deemed to require any instrument to which the Government or any officer of Government in his official capacity is a party, to be executed before a Village-Registrar.

Exemption of instruments to which Government or any officer of Government is a party. Power of Local Government to make rules.

63. The Local Government may, from time to time, make rules regulating the appointment, suspension, dismissal and remuneration of Village-Registrars, and prescribing the fees to be levied by them.

[The following rules have been made under this Section.

1. Every Inspector shall be appointed by and may be suspended or dismissed by the Inspector-General of Registration and Stamps; but shall not be dismissed without the sanction of Government being first obtained.

Appointment, suspension and dismissal of District Inspectors.

2. Every Village Registrar not being a Sub-Registrar shall be appointed by and may be suspended or dismissed by the Registrar; but shall not be dismissed except with the concurrence of the Inspector-General: provided that the first appointment of Village Registrars made after the publication of these Rules, shall be made subject to the approval of Government.

Appointments, suspension and dismissal of Village Registrars.

3. In addition to any fixed salary all Taluka Village Registrars and Village Registrars shall draw 20 per cent. on the fee collection of their respective offices, and in addition to the above, Taluka Village Registrars shall draw 5 per cent. on the gross collections of their respective talukás.

Percentage commission to Taluka Village Registrars and Village Registrars.

4. In case of neglect of duty, carelessness or other official misconduct in contravention of the provisions of the Deccan Agriculturists' Relief Act the Registrar may fine any Taluka Village Registrar or Village-Registrar a sum not exceeding half a month's salary drawn under this Act, and shall report the case to the Inspector-General.

Fines to Taluka Village Registrars and Village Registrars for neglect of duty, &c.

5. No security for the due performance of their duties shall be required from Taluka Village Registrars, who are required to furnish security as Sub-Registrars; but Village Registrars shall be required to give security to the extent of Rs. 100. The security bond of a Village Registrar shall be in the form in use in the Revenue Department. The sureties may be one or two in number as the Collector, in whose charge the bond should be kept, directs.

Village Registrars to give security,

6. In case of Village Registrar being unable to attend to his duties owing to sudden illness or other cause he shall make an immediate report to the Taluka Village Registrar of the sub-district, who shall forthwith report the absence of the Village Registrar to the Registrar. If a *locum tenens* be appointed, his salary shall be regulated by the existing rules. Pending arrangements being made by the Registrar, the office of such Village Registrar shall be considered as closed and applicants shall be directed by the village authorities to the Taluka Sub-Registrar.

Arrangements to be made during absence of special Village Registrars from their offices.

7. The following scale of fees is fixed to be charged by Registering officers namely:—

Scale of fees.

I. For writing or superintending the writing and for attesting and registering any instrument:

(a) *If the amount or value of the consideration therefor to which such instrument relates, is expressed therein :—*

	Ra.	a.	p.
(1) When the amount or value does not exceed Rs. 50.	0	4	0
(2) Do. exceeds Rs. 50 but does not exceed Rs. 100	0	8	0
(3) Do. Rs. 100 do. Rs. 200	1	0	0
(4) Do. " 200 do. " 300	1	8	0
(5) Do. " 300 do. " 400	2	0	0
(6) Do. " 400 do. " 600	3	0	0
(7) Do. " 600 do. " 1000	4	0	0
(8) Do. " 1000 do. " 1500	5	0	0
(9) Do. " 1500 do. " 2000	6	0	0
(10) Do. " 2000 do. " 3000	8	0	0
(11) Do. " 3000 do. " 4000	10	0	0
(12) Do. " 4000 do. " 5000	12	0	0
(13) Do. " 5000 do. " 7500	14	0	0
(14) Do. " 7500 do. " 10000	16	0	0
(15) Do. " 10000 do. " 15000	18	0	0
(16) Do. " 15000 do. " 20000	20	0	0
(17) For every Rs. 500 or part thereof in excess of Rs. 20000	0	8	0
(b) <i>If the amount or value is not expressed :</i>			
(18) A fixed fee of	3	0	0
(c) <i>If the instrument is a will :</i>			
(19) A fixed fee of	2	0	0
(d) <i>If the instrument is one which cannot be brought under the above ad valorem scale and is not a will :</i>			
(20) A fixed fee of	1	0	0

II. For granting a copy of an instrument as entered in the Register, or of a memorandum filed under Rule 20, to any person who is not a party to the instrument to which such entry or memorandum relates or the agent or representative of a party thereto.

0 4 0

III. For a search for or inspection of any entry in a Register, by any applicant.

0 2 0

IV. For do. do. when the search is made by Village Registrar

0 4 0

V. For attendance at a private residence for the preparation of an instrument or for the attestation of a power-of-attorney

An extra fee equal to the ordinary fee in addition to bat-ta at the usual rates.

VI. For the attestation of a power-of-attorney :—

(a) if special	0	2	0
(b) if general	0	4	0

Note (a).—In the case of leases, the amount or value of the consideration on which the *ad valorem* fee is to be assessed under Item I (a) of the above table shall be as follows :—

If the lease is granted : The fee will be assessed on :

- (1) in consideration of the payment of a fine or premium only } the amount of such fine or premium paid or payable ;
- (2) in consideration of the payment of a fine or premium, in addition to rent reserved } the average annual rent reserved, in addition to the amount of fine or premium ;
- (3) in consideration of the payment of an annual rent, without the payment of fine or premium } the average annual rent reserved ;
- (4) for a period less than a year } the total sum payable under the lease ;
- (5) for an indefinite period } the average annual rent payable for the first ten years.

Note (b).—If a patta or lease be given to a cultivator and a *kaḥulāyat* or counter part of such patta or lease be prepared and registered in the same office and on the same day as the patta or lease, the fee chargeable in respect of the two documents shall not be greater than the fee chargeable for the patta or lease alone.

Note (c).—In the case of annuity-bonds and service bonds and agreements to hire moveable property, the amount or value of the consideration on which the *ad valorem* fee is to be assessed under the item aforesaid shall be as follows:—

If the annuity-bond, service bond, or agreement is granted or passed : } The registration fee will be assessed on :

- (1) for a definite period exceeding one year } the average annual amount to be paid during the period ;
- (2) for an indefinite period } the average annual amount to be paid during the first ten years ;
- (3) for a period less than a year } the total amount payable under the annuity-bond or agreement.

Note (d).—If, in any of the above cases, the rent, annuity or remuneration is payable partly in money and partly in kind and the money value of the portion payable in kind is not expressed, the fee will be charged at twice the amount of the *ad valorem* fee chargeable in respect of the amount payable in money. And if the rent, annuity or remuneration is payable entirely in kind and the money value thereof is not expressed, a fixed registration fee of Rs. 2 will be charged.

VII.—For the safe custody and return of any original instrument, which having remained in the hands of the Village Registrar for sixty days from the date of its registration, as unclaimed by the party entitled to the custody, of the same, has been forwarded, under rule 30, to the Village Sub-Registrar.—

Rs. a. p.

For every day that such original instrument remains in the custody of the Taluka Village Registrar up to the day when it is claimed by a party entitled to its custody 0 1 0

Provided, however,

(1) That no fee in excess of Rs. 3 shall in any case be levied for the custody and return of any one such original instrument.

(2) That the Inspector-General shall be empowered to remit any such fees in whole or in part in any particular case.

1882 G. G. 868 ; 1886 G. G. 1078. ; 1888 G. G. 584 & 744 ; 1890 G. G. 940.

CHAPTER VIII. A.—REGISTRATION OF INSTRUMENTS

REFERRED TO IN SECTION 17 OF THE INDIAN

REGISTRATION ACT, 1877.

[Inserted by Act XXIII. of 1886.]

63A. (1) When an agriculturist intends to execute any instrument required by section 17 of the Indian Registration Act, 1877, to be registered under that Act, he shall appear before the Sub-Registrar within whose sub-district the whole or some portion of the property to which the instrument is to relate is situate, and the Sub-Registrar shall write the instrument, or cause it to be written, and require it to be executed, and attest it and, if the executant is unable to read the instrument, cause it to be further attested, and otherwise act in accordance with the procedure prescribed for a Village-Registrar by sections 57 and 59 of this Act, and shall then register the instrument in accordance with the provisions of the Indian Registration Act, 1877.

Mode of execution by agriculturists of instruments required to be registered under Act III of 1877.

(2) An instrument to which sub-section (1) applies shall not be effectual for any purpose referred to in section 49 of the Act last-mentioned unless it has been written, executed and attested in the manner provided in that sub-section.

[With regard to the documents executed and registered under this Section see High Court Rule Book 1892. pp. 275, &c.]

In preparing any instrument under this Section Sub-Registrars shall be guided by the provisions of Nos. 13, 14, 15, 15B, 16, 17 and 18 of the Rules made under Section 61 by the Inspector-General of Registration with the sanction of Government for regulating the proceedings of village-registrars. 1887 G. G. 141.]

CHAPTER IX.—OF RECEIPTS AND STATEMENTS

OF ACCOUNT.

64. The person to whom any agriculturist makes any payment of money in liquidation of a debt shall, at the time of such payment, tender to such agriculturist, whether he demand the same or not, a written receipt for the amount of such payment.

Agriculturists entitled to written receipts.

If such payment is made under any instrument executed before a Village-Registrar, the receipt shall, if the agriculturist so require, be endorsed on the copy of the instrument furnished to him under section fifty-eight.

65. Any agriculturist by whom any money is due under any instrument shall, on such date in each year as the Local Government, having regard to local custom, may from time to time, by notification

To annual statements of account.

in the official Gazette, fix, be entitled to receive, on demand, from the person claiming under such instrument, a statement up to that date of his account under such instrument.

[The day of the Dewali festival is the date fixed under this Section. 1879 G. G. 934.]

To have
account made
up from time
to time in a
pass-book.

66. Any agriculturist in whose name an account is kept by any trader or money-lender shall be entitled to receive from such trader or money-lender, on demand, a pass-book, and to require, from time to time, that his account up to date be written therein and authenticated by the signature or mark of the said trader or money-lender.

An entry so made in any such pass-book of any payment made to the trader or money-lender shall be deemed to be equivalent, for the purposes of section sixty-four, to the grant of a receipt for the amount so entered.

No person whose account has been written in a pass-book as required by this section shall be entitled also to demand an account under section sixty-five.

Penalty for
contravention
of sections 64
to 66.

67. Any person who, in contravention of section sixty-four, sixty-five or sixty-six, refuses or neglects to tender a receipt or a statement of account or a pass-book, or to write, or cause to be written, any account or any part of an account in a pass-book, or to attest the same when so written, shall be punished for each such offence with fine which may extend to one hundred rupees.

CHAPTER X.—LEGAL PRACTITIONERS.

Pleaders &c.,
excluded in
certain cases.

68. No pleader, vakil or mukhtár, and no advocate or attorney of a High Court, shall be permitted to appear on behalf of any party to any case before a Conciliator or a Village-Munsif :

Provided that any party to any such case may be permitted, on reasonable cause being shown to the satisfaction of the Conciliator or Village-Munsif, to employ any relative, servant or dependent who is not, and has not previously been, a pleader, vakil or mukhtár, or an advocate or attorney of a High Court, to appear either conjointly with, or in lieu of, such party.

When a relative, servant or dependent appears in lieu of a party, he shall be furnished by him with a power-of-attorney defining the extent to which he is empowered to act.

[Printed as substituted by Act XXIII of 1881 and amended by Act XXII of 1882.]

Powers-of-Attorney furnished to relatives, servants or dependents under this section are exempted from stamp-duty. 1889 G. G. 1017.]

69. When in any suit or proceeding before a Subordinate Judge under this Act to which an agriculturist is a party, any pleader, vakil or mukhtár, or any advocate or attorney of a High Court, appears on behalf of any party opposed to such agriculturist, the Subordinate Judge, if he is of opinion that such agriculturist has not the means of obtaining proper professional assistance, may, with the consent of such agriculturist, direct the Government pleader or any other fit person (who is willing so to do) to appear on his behalf.

Power of Court to appoint pleader for agriculturist.

CHAPTER XI.—MISCELLANEOUS.

70. No mortgage, lien or charge of or upon any immoveable property belonging to an agriculturist shall be valid unless it is created by an instrument in writing under the hand of the person creating such mortgage, lien or charge.

Mortgages, &c., to be valid only when written.

Nothing in this section shall apply to any mortgage, lien or charge created by mere operation of law, or in favour of the Government or of any officer of the Government in his official capacity.

71.—[Repealed by Act XXIII of 1881.]

72. In any suit of the description mentioned in section 3, clause (w) for the recovery of money from a person, who at the time when the cause of action arose was an agriculturist, the following periods of limitation shall be deemed to be substituted for those prescribed in the second column of the second schedule annexed to the Indian Limitation Act, 1877 (that is to say):—

Limitation.

- (a) when such suit is founded on a written instrument registered under this Act or any law in force at the date of the execution of such instrument,—twelve years;
- (b) in any other case,—six years;

Provided that nothing in this section shall—

- (i) apply to suit for the recovery of money from a person who is a surety merely of the principal debtor if the principal debtor was not, at the time when the cause of action arose, an agriculturist, or

- (ii) revive the right to bring any suit which would have been barred by limitation if it had been instituted immediately before this Act comes into force.

[Printed as substituted by Act XXIII of 1881 and amended by Act XXIII of 1886.]

S. 72 applies to all agriculturists whether filling the character of principals or agents. *Held* therefore that an agriculturist surety was liable though under the ordinary law of limitation the action against the principal debtor was barred. *Hajarimal v Krishnarav*. I. L. R., 5 Bom. 647.

Where an agriculturist, who was merely a surety, was made co-defendant in a suit on a moneybond, *held* that in this case period of limitation was the ordinary period of three years and not one of six under s. 72. *Ganesh v. Govind* I. L. R., 9 Bom. 461.

In a suit arising out of cause of action of the 17th October-1880 and 8th July 1881; *held* that the decision of the question of limitation with reference to this section, section 17 of Act 23 of 1881 and s. 19 of Act 22 of 1882 must depend upon whether defendant was an agriculturist as defined by Act 23 of 1881, when the cause of action arose. *Gangaram v. Nemchand* 1889 P. J., 313.

The words "not merely a surety for the principal debtor" in this section are not restricted to the case in which principal debtor is a non-agriculturist. *Kesu v. Vithu* I. L. R. 9 Bom. 320.]

Decision as to whether person is an agriculturist, final.

73. The decision of any Court of first instance that any person is or is not an agriculturist shall, for the purposes of this Act, be final.

[See notes to s. 15B. Section 73 makes the decision of the Subordinate Judge conclusive for the purposes of the Act on the question whether any person is or is not an agriculturist. *Rarji v. Gangaram*. 1885 P. J., 105.]

Certain agricultural produce exempted from attachment, &c.

73A. When the Collector has taken any immoveable property of a judgment-debtor or insolvent into his possession under section twenty-two or section twenty-nine, he may, by an order in writing, direct that any other such property not so taken shall be deemed to be reserved for the support of judgment-debtor or insolvent and the members of his family dependent on him, and may rescind that order.

While any such order continues in force in respect of any immoveable property, agricultural produce grown on that property shall not be attached or sold in execution of a decree passed whether before or after this Act comes into force, and shall not vest in the receiver appointed in any insolvency-proceedings.

[Inserted by Act XXII. of 1882.]

Civil Procedure Code to

74. Except in so far as it is inconsistent with this Act, the

Code of Civil Procedure shall apply in all suits and proceedings before Subordinate Judges under this Act: apply in Subordinate Judges' Courts.

[See notes to s. 53.]

The defendant did not appear though duly summoned. The Court proceeded *ex parte*. Subsequently the defendant was examined as a witness. He then applied for summons to call his witnesses to support his allegations. The Subordinate Judge was of opinion that according to the Civil Procedure Code the defendant was not entitled to offer evidence. *Held* the Civil Procedure Code is to be applied only so far as it is consistent with the Act. By S. 12 the Court is bound to inquire into the merits of the case and it cannot be done unless the Sub-Judge examines the persons who are acquainted with them. *Dulichand v. Dhondi* I. L. R., 5 Bom. 184.]

75. The Local Government may, from time to time, make all such rules as it may deem necessary for carrying out the provisions herein contained. Additional power to make rules.

[See notes to ss. 29 and 53.]

The following rules have been made under this section :—

1. No Village Registrar shall prepare or register any instrument under the provisions of the Act to which he or any member of his family is a party. For the preparation or registration of any such instrument the parties shall be referred to the Taluka Village Registrar who has concurrent jurisdiction.

Certain Village Registrars not to prepare or register instruments in which they are interested.

3. No Village Registrar shall prepare or register any instrument under the provisions of the Act, unless it shall be stated in the body of such instrument whether the consideration mentioned in the instrument has already been paid or is to be paid hereafter, and if it has been paid, the manner in which such payment was made shall be fully set forth.

Recital as to payment of consideration.

4. For the purpose of section 57 the powers-of-attorney next hereinafter mentioned shall alone be recognized (that is to say):—

Powers-of-attorney recognizable for purposes of section 57.

- (a) if the party executing a power-of-attorney at the time of executing the same resides in any district in which the Act is for the time being in force, a power-of-attorney executed before and authenticated by the Registrar or Sub-Registrar or Village Registrar within whose district, sub-district, or village such party resides :
- (b) if the party at the time aforesaid resides in British India, but not in any district in which the Act is for the time being in force, a power-of-attorney executed before and authenticated by any Magistrate :
- (c) if the party at the time aforesaid does not reside in British India, a power-of-attorney executed before and authenticated by a Notary public, or any Court, Judge, Magistrate, British Consul or Vice-Consul, or representative of Her Majesty or of the Government of India.

5. Applications for copies under the 4th paragraph of s. 58 must be made in writing. 1882 G. G. 870 ; 1884 G. G. 978 ; 1886 G. G. 1079.]

76. All rules made by the Local Government under this Act shall be published in the official Gazette, and shall thereupon, in so far as they are consistent with this Act, have the force of law. Rule to be published.

ACT No. IX OF 1880.

PASSED BY THE GOVERNOR GENERAL OF INDIA
IN COUNCIL.*(Received the assent of the Governor General on the 30th
April, 1880.)**An Act to amend the Bombay Civil Courts Act, 1869*

Preamble.

WHEREAS, it is expedient to empower the Governor of Bombay in Council to fix and, from time to time, to alter the local limits of the ordinary jurisdiction of the Subordinate Judges appointed under the Bombay Civil Courts Act, 1869 ; It is hereby enacted as follows :—

Short-title.

1. This Act may be called "The Bombay Civil Courts Act, 1880."

Commence-
ment.

and it shall come into force at once.

Insertion of a
new section
after section
22 of the
Bombay
Civil Courts
Act,

2. In the said Act, after section 22, the following section shall be inserted :—

2A. [Inserted see Act XIV of 1869 s. 22A.]

3.—[Repealed by Act XII of 1891.]

ACT No. XV OF 1880.

PASSED BY THE GOVERNOR GENERAL OF INDIA
IN COUNCIL*(Received the assent of the Governor General on the 3rd November,
1880.)**An Act to amend the Bombay Revenue Jurisdiction Act, 1876.*

Preamble.

WHEREAS it is expedient to amend the Bombay Revenue Jurisdiction Act, 1876, in manner hereinafter appearing ; It is hereby enacted as follows :—

[Printed as amended by Act XII of 1891.]

Short-title.
Commence-
ment

1. This Act may be called "The Bombay Revenue Jurisdiction Act, 1880"; and it shall come into force at once.

Repeal of
sections, 8, 9,
10 and 17 of
Act No. X of
1876.

2. Sections eight, nine, ten and seventeen of the said Bombay Revenue Jurisdiction Act, 1876, are hereby repealed :

Provided that the repeal hereby effected, of the first clause of the said section seventeen, shall not operate in any Scheduled District unless and until the Bombay Land-revenue Code, 1879, has been extended to such district :

Provided also that the repeal of the second clause of the said section seventeen shall not be deemed to render invalid or illegal anything made valid or legal by such clause.

3. To section thirty-two of the Bombay Civil Courts Act, No. XIV of 1869, as amended by section fifteen of the said Bombay Revenue Jurisdiction Act, 1876, the following words shall be added :—

[Added in their proper place. See Act XIV of 1869.]

4 & 5.—[Repealed by Act XII of 1884 except as regards recovery of advances before Act XII of 1884 came into force and of the interest thereon.]

Addition to section 32 of Act No. XIV of 1869 as amended by section 15 of Act No. X of 1876.

THE SINDH INCUMBERED ESTATES ACT, 1881.

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ACT NO. XX OF 1881.

PASSED BY THE GOVERNOR GENERAL OF INDIA
IN COUNCIL.

(Received the assent of the Governor General on the 7th
September, 1881.)

*An Act to amend the law providing for the relief of Jagirdars
and Zamindars in Sindh*

WHEREAS it is expedient to amend the law providing for the relief of Jagirdars and Zamindars in Sindh; It is hereby enacted as garden follows :—

CHAPTER I.—PRELIMINARY.

1. This Act may be called "The Sindh Incumbered Estates Act, 1881"; and it shall come into force on the passing thereof.
2. Act No. XIV of 1876 (*to relieve from Incumbrances the estates of Jagirdars and Zamindars in Sindh*) is repealed; but all applications, appointments and rules made, all notices published and all other things duly done under the said Act shall be deemed to have been respectively made, published and done under this Act.

3. In this Act—

"Jagir land" includes also a share held hereditarily of the revenues of a Government village, but does not include *siri* or *mamul* or garden grants :

"Jagirdar" means a person who, or whose ancestor, was found in possession of jagir land in Sindh on the seventeenth day of February, 1843, and to whom the said land, or a portion of the same, or other land in lieu thereof, has been continued by the British Government, and to whom, or to whose ancestor, a sanad has been, or hereafter may be, granted confirming such continuance :

"Zamindar" means a person holding lands in Sindh on the aggregate of which he or his ancestor has been assessed by the Government, on account of land-revenue for any one of the five revenue years next before the fourteenth day of September 1876, a sum

not less than three hundred rupees and a person holding lands in Sindh which, having been comprised in the jaghir lands of a jaghirdar, and having ceased to be jaghir lands, are assessed by the Government on account of land revenue at a sum not less than three hundred rupees per year, and, where a joint family or any other body of co-owners holds lands of either of those descriptions, each member of that family or body who would be entitled to demand a partition of the lands.

“Commissioner” means the Commissioner in Sindh.

[Printed as amended by Act XI of 1884.]

CHAPTER II.—OF THE APPLICATION AND PRELIMINARY INQUIRY.

Application
for the benefit
of this Act.

4. At any time within six months after the passing of this Act, any jagirdar or zamindar,

or any person who would be sole heir or one of the heirs to such jagirdar or zamindar if he then died intestate,

may apply, in writing, to the Commissioner, stating that such jagirdar or zamindar is subject to debts or liabilities, other than debts due, or liabilities incurred, to Government, or that his immoveable property is charged with debts or liabilities other than as aforesaid, and requesting that the provisions of this Act be applied to his case.

When any jagirdar, zamindar or other person entitled to make an application under this section is a minor, or of unsound mind, or an idiot, such application may be made on his behalf by the guardian or other legal curator of his person, or by the legally constituted administrator or manager of his estate.

Order to
inquire.

5. When any such application is made by or on behalf of a jagirdar, or the person who would be his sole heir if he then died, the Commissioner shall direct an inquiry to be made by such officer as he thinks fit into the nature and amount of such debts and liabilities, and the sufficiency of the debtor's property, whether moveable or immoveable, to discharge the same.

When such an application is made in any other case, it shall be in the discretion of the Commissioner, subject to any general rules which may from time to time be made by the Governor of Bombay in Council in this behalf, either to reject such application or to direct an inquiry to be made as aforesaid.

Interim order
of protection.

5A. When the Commissioner has directed an inquiry under section five, he may, if he thinks fit, further direct that, until he dismisses the application or appoints an officer under section seven,—

(a) all proceedings then pending in any Civil Court or Revenue Court or Office in British India in respect of any of the debts and liabilities to which the debtor is subject, or which are charged on the whole or any part of his immoveable property, shall be stayed, and

the operation of all processes, executions and attachments then in force for or in respect of such debts and liabilities shall be suspended; and

(b) no fresh proceedings, processes, executions or attachments shall be instituted in or issued by any Civil Court or Revenue Court or Office in British India in respect of such debts and liabilities.

[Added by Act XI of 1884.]

6. When an inquiry has been directed under section five, the applicant shall, within a period to be fixed by the Commissioner, submit to the officer appointed to make such inquiry a statement duly verified by the said applicant, or by some other competent person, in the manner required by law for the verification of plaints, and containing, so far as may be practicable, such details as to the debts and liabilities, and as to the sufficiency of the debtor's property, whether moveable or immoveable, to meet the same, as the Commissioner, or the said officer subject to his control, may require.

Verified statement to be submitted.

If any such statement contains any averment which the person making the verification knows or believes to be false, or does not know or believe to be true, such person shall be deemed to have intentionally given false evidence within the meaning of the Indian Penal Code.

False averments in statement.

7. The officer so appointed, after making inquiry, shall submit a report of the proceedings to the Commissioner.

Report of inquiry and proceedings thereon.

On receipt of such report, the Commissioner may (a) direct a further inquiry; or (b) dismiss the application; or (c), by order published in the *Sindh Official Gazette*, appoint an officer (hereinafter called the manager) to manage the immoveable property of the debtor, and to arrange for the liquidation of his debts in manner hereinafter provided.

CHAPTER III.—OF THE ORDER OF MANAGEMENT.

8. Such order (hereinafter called "the order of management") shall extend to all immoveable property including any interest in joint immoveable property of or to which the debtor is on the date of its publication possessed or entitled in his own right, or which he is entitled to redeem, or which may be acquired by or devolve on him during the continuance of the management, and to all debts and liabilities to which he is subject, or which are charged on the whole or any part of his immoveable property on the said date, and to the amount of any loan which may be received by the manager from Government in the manner hereinafter provided.

"Order of management;" to what it extends.

The management shall be deemed to commence from the date on which the order is published.

Commencement of management.

[Printed as amended by Act XI of 1884.]

9. On the publication of the order of management the following consequences shall ensue;—

Effect of order of management.

Stay of
pending
proceedings,
&c.

First, all proceedings then pending in any civil Court or Revenue Court or Office in British India in respect to the debts and liabilities mentioned in section eight shall be stayed; and the operation of all processes, executions and attachments then in force for or in respect of such debts and liabilities shall be suspended ;

Bar of fresh
proceedings.

Secondly, so long as the management continues, no fresh proceedings, processes, executions or attachments shall be instituted in or issued by any civil Court or Revenue Court or Office in British India in respect of such debts and liabilities ;

The debtor in-
competent—

Thirdly, so long as the management continues, the debtor shall be incompetent—

to contract
debts,

(a) to enter into any contract involving him in pecuniary liability, or

to encumber or
alienate pro-
perty under
management,
to grant
receipts for
rent thereof.

(b) to mortgage, charge, lease or alienate the property under management or any part thereof, or

(c) to grant valid receipts for the rents and profits arising or accruing therefrom :

Provided that nothing contained in this clause shall be deemed to preclude the manager from letting, and the debtor from taking, the whole or any part of such property on such terms consistent with this Act as may be agreed upon between the parties ;

Fourthly, so long as the management continues, no person other than the manager shall be competent to mortgage, charge, lease or alienate such property or any part thereof.

[Printed as amended by Act XI of 1884.]

Manager to
have powers
of owner and
to receive
rents, and
profits,
to have
powers of a
Collector for
their recovery.

10. The manager shall, during the management of the property, have all powers which the owner thereof might, as such, have legally exercised, and shall receive and recover all rents and profits due in respect of the property under management,

and for the purpose of recovering such rents and profits shall have, in addition to any powers possessed by a jágirdár or zamindár, as the case may be, all the powers possessed by a Collector under the law for the time being in force for the recovery of land-revenue due to Government :

Provided that he shall not, before the liquidation-scheme herein-after mentioned has been sanctioned, demise the property under management, or any part thereof, for any term exceeding two years, to take effect in possession.

Manager to
pay there-
from—
costs of
management
and repairs,
Government
revenue, &c.,

11. From the sums received or recovered under section ten, the manager shall pay—

First, the costs of the management, including the costs of necessary repairs ;

Secondly, the Government revenue and all debts and liabilities

for the time being due or incurred to Government in respect of the property under management ;

Thirdly, the rent (if any) due to the *jāgirdār* or other superior holder in respect of the said property ;

Fourthly, such periodical allowances as the Commissioner may from time to time fix for the maintenance of the debtor and his family ;

Fifthly, the cost of such improvements of the said property as he thinks necessary, and are approved by the Commissioner.

The residue shall be retained by the manager for the liquidation, in manner hereinafter provided, of the debts and liabilities mentioned in section eight other than those so due or incurred to Government, and also for the repayment, either before or after the liquidation of such debts and liabilities, of any loan received from Government by the manager under this Act.

CHAPTER IV.—PROOF OF DEBTS AND SCHEME FOR LIQUIDATION.

12. On the publication of the order of management, the manager shall publish in the *Sindh Official Gazette* a notice in English and Sindhi, calling upon all persons having claims against the debtor, or the property under management, to notify the same in writing to such manager within six months from the date of the publication.

He shall also cause copies of such notice to be exhibited at the *mukhtiarkārs'* *kachahris* in the district in which the said property lies, and at such other places as he thinks fit.

13. Every such claimant shall, along with his claim, present full particulars thereof.

Every document on which the claimant founds his claim, or on which he relies in support thereof, shall be delivered to the manager along with the claim.

If the document be an entry in any book, the claimant shall produce the book to the manager, together with a copy of the entry on which he relies. The manager shall mark the book for the purpose of identification, and, after examining and comparing the copy with the original, shall return the book to the claimant.

If any document in the possession or under the control of the claimant is not delivered or produced by him to the manager along with the claim, the manager may refuse to receive such document in evidence on the claimant's behalf at the investigation of the case.

14. Every such claim (other than claims of the Government) not notified to the manager within the time and in the manner required by such notice shall, except as provided in section nineteen, clause (d), be deemed for all purposes and on all occasions, whether during the continuance of the management or afterwards, to have been duly discharged :

rent due to superior holder, allowance for maintenance of debtor, cost of improvements, &c.

Residue how disposed of.

Notice to claimants against debtor.

Copies of notice to be exhibited.

Claim to contain full particulars. Documents to be given up.

Entries in books.

Exclusion of documents not produced.

Claim not duly notified to be barred.

Provision for admission of claims within further period of six months.

Provided that, when proof is made to the manager that the claimant was unable to comply with the provisions of section twelve, the manager may receive such claim within the further period of six months from the expiration of the original period of six months.

Determination of debts and liabilities.

15. The manager shall inquire into the history and merits of every claim received under sections twelve and fourteen, and shall, in accordance with the rules to be made under this Act, determine the amount of the debts and liabilities (if any) justly due to the several claimants.

Power to rank debts and to fix interest.

16. If such amount cannot be paid at once, the manager shall then proceed to rank such debts and liabilities according to the order in which they shall be paid, and to fix the interest (if any) to be paid thereon, respectively, from the date of the final decision thereon to the date of the payment and discharge thereof.

Scheme for liquidation.

17. When the total amount of the debts and liabilities (including those due and incurred to Government) has been finally determined, the manager shall prepare and submit to the Commissioner a schedule of such debts and liabilities, and a scheme (hereinafter called the liquidation-scheme) showing the mode in which it is proposed to pay and discharge the same, whether from the income of the property under management, or with the aid of funds raised under the powers hereinafter conferred, or partly in one such ways and partly in the other.

Provisions of scheme.

Every such scheme shall further provide for the continuance of the payments to be made by the manager under section eleven, and for the repayment of the money (if any) which the manager proposes to borrow from Government under this Act; and may provide for the improvement of the property under management either from the said income or with the aid of the funds raised as aforesaid, or partly in one of such ways and partly in the other.

Proceedings of Commissioner on submission of scheme

18. The Commissioner may
(a) as often as he thinks fit send back such scheme to the manager for revision, and direct him to make such further inquiry as may be requisite for the proper preparation of the scheme, or
(b) sanction any liquidation-scheme or any revised liquidation-scheme, submitted to him, either as it stands, or such modifications as he may deem expedient.

Power to relinquish management.

19. At any time before he has sanctioned a liquidation-scheme under section eighteen, the Commissioner may, by an order published in the *Sindh Official Gazette*, direct that on a date fixed by such order the management shall be relinquished.

On the date so fixed—

(a) the management shall terminate;

(b) the owner of the property under management shall be restored to the possession thereof, subject to any leases made under section ten;

(c) any residue of the rents and profits of the said property retained under the last clause of section eleven shall be paid to him ; and

(d) the proceedings, processes, executions and attachments stayed and suspended under section nine, and the debts and liabilities barred by section fourteen, shall revive.

In calculating the periods of limitation applicable to suits to recover and enforce debts and liabilities revived under this section, the time during which the management has continued shall be excluded.

CHAPTER V.—OF THE PROCEEDINGS SUBSEQUENT TO SANCTION OF THE LIQUIDATION-SCHEME.

20. When the Commissioner sanctions the liquidation-scheme, Effects of sanctioning scheme. he shall notify the fact of such sanction at such places and in such manner as the Local Government may from time to time by rule direct ; and thereupon—

1st, all proceedings, processes, executions and attachments stayed or suspended under section nine shall be for ever barred, and

2nd, every debt or liability due or owing to any person which was proveable before the manager shall be extinguished ; and such person shall be entitled to receive under the liquidation-scheme the amount (if any) finally awarded to him under Chapter IV of this Act in respect of such debt or liability.

21. If the property under management or any part thereof be in the possession of a mortgagee or conditional vendee, the manager, Power to remove mortgagee in possession. at any time after the liquidation-scheme has been sanctioned as aforesaid, may, by an order in writing, require such incumbrancer to deliver up possession of the same to him at the end of the then current revenue year.

If such incumbrancer refuse or neglect to obey such order, the manager may, without resorting to a civil Court, enter upon the property and summarily evict therefrom the said incumbrancer and any other person obstructing or resisting on his behalf.

Nothing in this section shall be held to affect the right of any incumbrancer to receive, under the liquidation-scheme, the amount (if any) awarded to him under Chapter IV of this Act.

22. If the property under management or any part thereof be in the possession of any person claiming to hold under a lease dated Power to inquire into consideration given for leases. within three years immediately preceeding the commencement of

the management, the manager, with the sanction of the Commissioner, may inquire into the sufficiency of the consideration for which the lease was given; and if such consideration appears to him insufficient, may by order, at any time after the liquidation-scheme has been sanctioned as aforesaid, either set aside the lease or require the person so in possession to pay such consideration for the said lease as the manager thinks fit; and in default of such payment the lease shall be cancelled.

Power to lease.

23. Subject to the rules made under section thirty-one, the manager, after the liquidation-scheme has been sanctioned as aforesaid, shall have power to demise all or any part of the property under management for any term of years not exceeding twenty years absolute, to take effect in possession, in consideration of the payment to him of any fine, or without fine, and reserving such rents, and under such conditions, as may be agreed upon.

Power to raise money by mortgage or sale.

24. At any time after the liquidation-scheme has been sanctioned as aforesaid, the manager, with the previous assent of the Commissioner, shall have power to raise any money which may be required for carrying out such scheme—

(a) by demising by way of mortgage the whole or any part of the property under management for a term not exceeding twenty years from the publication of the order of management; or

(b) by selling, by public auction or by private contract, and upon such terms as the manager thinks fit, such portion of the said property as may appear expedient; or

(c) by borrowing money from Government at such rate of interest as appears reasonable to the Local Government.

Separation of part of jāghir lands subject to lapse.

24A. When jāghir land under management is held on this condition, that on the happening of a certain event a share of the land shall lapse, but that it shall be in the discretion of the person then entitled as jāghirdar to divide off and relinquish in respect of the lapse such part of the land, being a fair equivalent of that share, as he thinks fit, the manager may, if he deems it convenient for the better exercise of the powers conferred by sections twenty-three and twenty-four, at any time, after such consultation with persons interested as he thinks necessary, allot by written order, for relinquishment on the happening of the event, such part of the land as he thinks fit; and thereupon that part and no other shall, on the happening of the event, be relinquished.

[Added by Act XI of 1884.]

Manager's receipt to be a discharge.

25. The manager's receipt for any moneys, rents or profits raised or received by him under this Act shall discharge the person

paying the same therefrom and from being concerned to see to the application thereof.

26. When the debts and liabilities mentioned in the liquidation-scheme and the amount of any loan received from Government under clause (c) of section twenty-four, together with the interest (if any due thereon, have been paid and discharged, the manager shall publish in the *Sindh Official Gazette* a notice fixing a date for the termination of the management. Termination of management.

On the date so fixed the management shall terminate, and the owner shall be restored to the possession and enjoyment of the property under management, or of such part thereof as has not been sold by the manager under the power conferred by section twenty-four, but subject to the leases and mortgages (if any) granted and made by the manager under the powers conferred by sections ten, twenty-three and twenty-four. Restoration of owner.

27. If the debtor dies after the publication of the order of management and before the management has been terminated in either of the modes herein-before provided— Death of debtor during management.

1st, the management shall continue and proceed in all respects as if such debtor were still living ;

2ndly, any person succeeding to the whole or any portion of the property under management shall, while such management continues, be subject in respect of such property to the disabilities imposed by clauses (b) and (c) of section nine ; and

3rdly, no civil Court or Revenue Court or Office in British India shall, during the continuance of the management, issue any attachment or other process against any portion of the property under management for or in respect of any debt or liability incurred by any such person whether before or after his said succession.

[Printed as amended by Act XI of 1884.]

28. When a jágirdár or zamindár has been restored under section twenty-six to the possession of any property, no mortgage, charge, lease or alienation of such property, or of any part thereof, made by such jágirdár or zamindár shall be valid as to any time beyond his natural life. Mortgages, &c., made by restored jágirdár valid only for his life.

CHAPTER VI.—OF APPEAL AND REVISION.

29. An appeal against any decision or order under sections fourteen, fifteen, sixteen and twenty-two, and imposing a fine or imprisonment in exercise of the powers conferred by section thirty-five, shall lie to the Commissioner, if preferred within six weeks from the date of such decision or order. Appeal.

There shall be no appeal against the decision of the Commissioner on such appeal.

Power to call
for proceed-
ings and pass
order thereon.

30. The Commissioner may, of his own motion or on the application of any person concerned, call for the proceedings in any case under this Act, and pass such order thereon consistent with the provisions of this Act as he thinks fit.

CHAPTER VII.—MISCELLANEOUS.

Power to
make rules.

31. The Commissioner, with the previous sanction of the Governor of Bombay in Council, may, from time to time, make rules consistent with this Act—

- (a) to regulate the security to be required from subordinate officers under this Act ;
- (b) to regulate the procedure in all cases under this Act ;
- (c) for the guidance of officers enquiring into and determining on claims under Chapter IV of this Act ; and in particular as to the allowance of interest (if any) on each of the principal debts and liabilities so determined, from the date on which it was incurred down to the date of the determination, and on the aggregate amount of such debts and liabilities from the date of the determination down to the date of payment, and as to the order of paying debts and liabilities and repaying any loan received hereunder from Government ;
- (d) for investing any moneys received or raised by the manager under this Act in any Government securities of British India, and for the sale of such securities ; and
- (e) generally to carry out the provisions of this Act.

Such rules shall be published in the *Sindh Official Gazette*, and shall thereupon have the force of law.

[The following rules have been framed in pursuance of the power given by this section :—

1. All subordinate officers entrusted under this Act with the collection, receipt, or custody of moneys, or valuable properties shall furnish security to the extent of three years' salary.

2. The notices required to be issued under Sections 12 and 26 shall be respectively in the Forms A and B appended to these Rules.

3. Every Manager appointed under Section 6 of this Act should make the enquiry prescribed by Section 12, and shall prepare the schedule of debts and liabilities, and the scheme for the settlement thereof required by Section 17 in the following manner.

4. He shall ascertain the principal sum or sums originally or from time to time lent by each of the creditors severally, and this sum or these sums, with 9 per cent. per annum simple interest from the time when the debt was incurred up to the date on which the order provided for in Section 8 of the Act is published, and no further, shall in each case be the amount awarded, but subject to the following conditions—

I.—The amount of interest shall in no case exceed that of the principal.

II.—The heir in the second generation of the person who originally incurred the debt, to pay the principal only and no interest.

III.—The amount assigned in settlement of bonds held for services rendered by the creditor to be determined by the Manager after hearing evidence of the service in question.

IV.—No interest to be allowed on debts whose accounts to the satisfaction of the Manager are not produced.

V.—When the first principal is not satisfactorily proved, a deduction of 50 per cent. to be made from the amount of the debt as it stands at the first stage at which satisfactory proof of the existence of the debt is given.

VI.—When no accounts are produced, the claim shall be disallowed, unless the debtor acknowledges the receipt of a sum in cash, in which case that sum shall be treated as the principal of the debt, but no interest shall be allowed.

VII.—Interest not to be allowed on account of debts in the absence of any specification that it shall be allowed.

VIII.—A claim supported by a decree of a civil court shall be subject to the same enquiry as any other claim; but in cases where it shall appear to the Manager that the suit was contested, and that the amount awarded either on account of principal or interest by the decree does not exceed by more than 25 per cent. the amount which could have been awarded by the Manager, if no such decree had been passed, the amount so awarded may be allowed, provided rule 4, clause 1, be not infringed. But if interest subsequent to decree be claimed, it shall be calculated as if no decree had been passed.

5. All payments made by the Jágirdár or Zamindár to any creditor, or profits which have been enjoyed by such creditor towards the liquidation of any debt or liability before the settlement under the Act, shall be deducted from the principal sum of the said debt or liability, and interest on an amount equal to such deducted sum shall be disallowed from time of such payment or enjoyment, and the Manager shall be competent to decide on the amounts of profits realized under such enjoyment after examining such proofs as are presented to him.

6. Whenever a bond or decree or other claim has been transferred by sale, gift, or otherwise from the original holder to any other person, the present holder shall be called upon to support his claim by the same proofs as if he were the original holder.

7. All admitted debts shall be satisfied proportionately in the following order:—

1st.—Money lent on the security of the estate.

2nd.—Decreed and bonded debts.

3rd.—Account debts.

8. If the principal of all the debts with simple interest at 9 per cent., shall exceed the amount which may be estimated to be available for the settlement of the creditors' claims as provided for in Section 11 of the Act during the period the estate shall be under management, then no interest shall be allowed on such debts as were not incurred by the present Jágirdár or Zamindár. If the amount be then still in excess of the aforesaid amount, the rate of interest to be awarded on the remaining debts shall be decreased until their amounts falls within the requisite limit. For the purposes of calculation under this rule, (20) twenty years shall be taken as the limit of the period of management.

9. In deciding what claims are admissible for settlement, and to what amount they shall be admitted, it shall be competent to the Manager to appoint a Committee of experienced Natives—consisting of three persons, of whom one only shall be in the service of Government—to assist him, and it shall further be competent to the Manager to reimburse the said Committee for their necessary expenses out of a percentage to be reserved on the rents and profits which the Manager may receive to cover all charges arising directly from the special nature of his duties.

10. Provided, however, that if the creditors of any estate shall of themselves produce a schedule of the original sums lent by them severally signed by the debtor, and both parties shall consent to the said schedule in presence of the Manager, it shall be competent to the said Manager to accept such schedule without further investigation, and to make it the basis of the settlement.

11. If the creditors shall agree to accept a sum of money from the Manager in immediate satisfaction of all their claims on any estate, and the Manager shall determine to borrow money from Government for the purpose of meeting such payment, it shall be competent for the Manager, on receipt of the orders of the Commissioner in Sind sanctioning such loan, to order payment to be made to the creditors from the Government Treasury, provided that the creditors shall first severally sign receipts in full for all

their claims on the estate, and that if any fraud is subsequently discovered to have been committed by any creditor, in respect to any money received by him under this rule, such creditor shall be liable to forfeit all sums so received, and all claim to further compensation for any debt due to him, which may have been notified to the Manager for satisfaction under this Act. And all sums advanced by Government under this rule, shall be recovered from the estate in the same manner as other debts due, or liabilities incurred, to the Crown or Government may be recovered under this Act.

12. In estimating the amount of cash composition to be paid for admitted claims, the following points should be considered:—

(a).—The income of the debtor, the amount of the debt, and the probability that the creditor would have been able to recover his debt if this Act had not been passed.

(b).—The nature of this particular debt.

(c).—The period for which the debt had been outstanding.

(d).—The interest hitherto enjoyed by the creditor, the rate of interest originally fixed, and the proportion between the amounts due as principal and interest, respectively, at the present time.

13. Advances made with the object of facilitating the settlement of the claims against any Jāgirdār or Zamindār's estate brought under the provisions of the said Act shall, when the Commissioner in Sind shall so direct, be chargeable with interest at the rate of (5) five per cent.

14. When the condition of an estate shall be found sufficiently prosperous, it shall be competent to the Commissioner in Sind to make such further awards beyond what is permitted by the previous rules as the circumstances shall seem to warrant.

APPENDIX A.

NOTICE UNDER SECTION 12 OF ACT XX. OF 1881.

No.

Station and date.

Whereas the management of the undermentioned estate, belonging to (name and father's name) has, by order of the Commissioner in Sind, dated _____, been vested in me as the Manager appointed under Act XX. of 1881,

I hereby give notice and require, under Section 12 of the said Act, that all persons having claims against the said _____, or against the said property under my management, shall notify the same in writing to me within six months from the date of the publication of this notice.

Every claimant is hereby required to present full particulars of his claim, and to produce at the same time or to cause to be produced every document or book containing any entry regarding his claim, on which he may found such claim or on which he may rely in support thereof.

Description of property, situation, and boundaries.

Manager.

APPENDIX B.

NOTICE UNDER SECTION 26 OF ACT XX. OF 1881.

No.

Station and date.

Whereas the management of the undermentioned estate, belonging to _____ was, by order of the Commissioner in Sind, dated _____, vested in me as the Manager appointed under Act XX. of 1881, and whereas all the debts and liabilities of the said estate have been paid and discharged, notice is hereby given under Section 26 of the said Act, that my management of the said estate will terminate on the (date of termination.)

Description of property, situation, and boundaries.

Manager.

[See General rules. Revenue Department. 1882 edn., pp. 343-346.]

32. Whenever the Commissioner thinks fit, he may suspend or remove any manager, and may appoint any officer in the stead of any manager appointed under this Act; and thereupon the management then vested under this Act in the former manager shall become vested in the new manager. Power to appoint new manager.

Every such new manager shall have the same powers as if he had been originally appointed.

33. Every manager appointed under this Act shall be deemed a public servant within the meaning of the Indian Penal Code. Managers to be public servants.

34. Every investigation conducted by the manager with reference to any claim preferred before him under this Act, or to any matter connected with any such claim, shall be taken to be a judicial proceeding within the meaning of the Indian Penal Code. Investigation to be deemed a judicial proceeding.

35. For the purposes of this Act, the manager may summon and enforce the attendance of witnesses and compel them to give evidence, and compel the production of documents, by the same means and as far as possible, in the same manner, as is provided in the case of a civil Court by the Code of Civil Procedure. Power to summon witnesses and compel production of documents.

36. No suit or other proceeding shall be maintained against any person in respect of anything done by him *bonâ fide* pursuant to this Act. Bar of suits.

37. Nothing in this Act precludes the Courts in Sindh having jurisdiction in suits relating to the succession to any immoveable property brought under the operation of this Act from entertaining and disposing of such suits; but to all such suits the manager of such property shall be made a party. Saving of jurisdiction of Courts in Sindh in respect of certain suits.

THE BROACH AND KAIRA INCUMBERED ESTATES ACT, 1881.

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ACT No. XXI OF 1881.

PASSED BY THE GOVERNOR GENERAL OF INDIA
IN COUNCIL.

*(Received the assent of the Governor General on the 7th September,
1881.)*

*An Act to amend the law providing for the relief of Thákurs
in the Districts of Broach and Kaira.*

WHEREAS it is expedient to amend the law providing for the Preamble.
relief of Thákurs in the Districts of Broach and Kaira ; It is hereby
enacted as follows :—

CHAPTER I.—PRELIMINARY.

Short title.

1. This Act may be called "The Broach and Kaira Incumbered Estates Act, 1881."

Commencement.

and it shall come into force on the passing thereof.

Partial repeal of Act No. XIV of 1877.

2. Act No. XIV of 1877 (*to relieve from Incumbrances the estate of Thakurs in Broach and Kaira*), except the last three sections, is repealed;

But all applications, appointments and rules made, all notices published and all other things duly done under the said Act or under Act No. XV of 1871 (*to relieve from Incumbrances the estates of Thakurs in Broach*) shall be deemed to have been respectively made, published and done under this Act.

In section 40 of the said Act No. XIV of 1877, for the words "the said Taluqdári Settlement-officer," the words "the Taluqdári Settlement-officer mentioned in the Broach and Kaira Incumbered Estates Act, 1881, section seven," shall be substituted.

Interpretation-clause. "Thákur":

3. In this Act—

"Thákur" means also taluqdár, jágirdár and kasbátí, and such other classes of holders of estates as the Local Government may, with the previous sanction of the Governor General in Council, declare to be Thákurs for the purposes of this Act:

"Heir":

"Heir" means the person for the time being entitled as heir to a Thákur:

"Commissioner":

"Commissioner" means the Revenue Commissioner of the Northern Division of the Presidency of Bombay.

[The Maliks of Thasra are declared to be Thákurs for the purposes of the Act, 1883, G. G. 504.]

CHAPTER II.—OF THE APPLICATION AND PRELIMINARY INQUIRY.

Application for benefit of Act.

4. At any time within six months after the passing of this Act, any Thákur,

or any person who would be sole heir or one of the heirs to such Thákur if he then died intestate, may apply, in writing, to the Commissioner stating that such Thákur is subject to debts or liabilities, other than debts due, or liabilities incurred, to Government, or that his immoveable property is charged with debts or liabilities other than as aforesaid, and requesting that the provisions of this Act be applied to his case.

When any Thákur or other person entitled to make an application under this section is a minor, or of unsound mind, or an idiot, such application may be made on his behalf by the guardian or other legal curator of his person, or by the legally constituted administrator or manager of his estate.

5. When any such application is made by or on behalf of a ^{Tha-} ^{Order to in-}
 kur, or the person who would be his sole heir if he then died, the ^{quire.}
 Commissioner shall direct an inquiry to be made by such officer as he
 thinks fit into the nature and amount of such debts and liabilities and
 the sufficiency of the debtor's property, whether moveable or im-
 moveable, to discharge the same.

When such an application is made in any other case, it shall be in
 the discretion of the Commissioner, subject to any general rules which
 may from time to time be made by the Governor of Bombay in Council
 in this behalf, either to reject such application or to direct an inquiry
 to be made as aforesaid.

6. When an inquiry has been directed under section five, the ^{Verified state-}
 applicant shall, within a period to be fixed by the Commissioner, ^{ment to be}
 submit to the officer appointed to make such inquiry a statement ^{submitted.}
 duly verified by the said applicant, or by some other competent per-
 son, in the manner required by law for the verification of complaints, and
 containing, so far as may be practicable, such details as to the debts
 and liabilities, and as to the sufficiency of the debtor's property,
 whether moveable or immovable, to meet the same, as the Commis-
 sioner, or the said officer subject to his control, may require.

If any such statement contains any averment which the person ^{False aver-}
 making the verification knows or believes to be false, or does not ^{ments in}
 know or believe to be true, such person shall be deemed to have ^{statement.}
 intentionally given false evidence within the meaning of the Indian
 Penal Code.

7. The officer so appointed, after making inquiry, shall submit ^{Report of}
 a report of his proceedings to the Commissioner. ^{inquiry and}
^{proceedings}
^{thereon.}

On receipt of such report, the Commissioner may—

(a) direct a further inquiry, or

(b) dismiss the application, or

(c) by order published in the *Bombay Government Gazette*,
 direct that the immovable property of the debtor shall be managed,
 and that his debts shall be liquidated, in the manner hereinafter
 provided, by a manager.

The Taluqdari Settlement-officer for the time being shall, unless
 the Local Government in any case otherwise directs, be such manager.

CHAPTER III.—OF THE ORDER OF MANAGEMENT.

8. Such order (hereinafter called "the order of management") ^{"Order of}
 shall extend to all immovable property of or to which the debtor is ^{manage-}
 on the date of its publication possessed or entitled in his own right, ^{ment;" to}
 or which he is entitled to redeem, or which may be acquired by or ^{what it}
 devolve on him during the continuance of the management, and to all ^{extends.}
 debts and liabilities to which he is subject, or which are charged on

the whole or any part of his immoveable property on the said date, and to the amount of any loan which may be received by the manager from Government in the manner hereinafter provided.

Commence-
ment of
management.

The management shall be deemed to commence from the date on which the order is published.

Effect of order
of manage-
ment.

9. On the publication of the order of management the following consequences shall ensue :—

Stay of pen-
ding proce-
dings, &c.

First, all proceedings then pending in any civil Court in British India in respect to the debts and liabilities mentioned in section eight shall be stayed ; and the operation of all processes, executions and attachments then in force for or in respect of such debts and liabilities shall be suspended ;

Bar of fresh
proceedings.

Secondly, so long as the management continues, no fresh proceedings, processes, executions or attachments shall be instituted in or issued by any civil Court in British India in respect of such debts and liabilities ;

The debtor
incompetent—

Thirdly, so long as the management continues, the debtor shall be incompetent—

to contract
debts,

(a) to enter into any contract involving him in pecuniary liability, or

to encumber
or alienate
property,
to grant
receipts for
rent.

(b) to mortgage, charge, lease or alienate the property under management or any part thereof, or

(c) to grant valid receipts for the rents and profits arising or accruing therefrom :

Provided that nothing contained in this clause shall be deemed to preclude the manager from letting, and the debtor from taking, the whole or any part of such property on such terms consistent with this Act as may be agreed upon between the parties ;

Fourthly, so long as the management continues, no person other than the manager shall be competent to mortgage, charge, lease or alienate such property or any part thereof.

Manager to
have powers
of owner and
to receive
rents and
profits;
to have
powers of
Collectors for
their reco-
very.

10. The manager shall, during the management of the property, have all powers which the owner thereof might, as such, have legally exercised, and shall receive and recover all rents and profits due in respect of the property under management,

and for the purpose of recovering such rents and profits shall have, in addition to any powers possessed by a Thákur, all the powers possessed by a Collector, under the law for the time being in force, for securing and recovering land-revenue due to Government :

Provided that he shall not, before the liquidation-scheme hereinafter mentioned has been sanctioned, demise the property under management, or any part thereof, for any term exceeding two years, to take effect in possession.

[The cognizance, by the Civil Court, of a suit to recover the amount improperly levied

as rent of rent-free land, and to obtain a declaration that such land is not subject to the payment of rent, is not barred. *Asmal v. The Collector of Broach*. I. L.R., 5 Bom. 135.]

11. From the sums received or recovered under section ten, the manager shall pay—

First, the costs of the management, including the costs of necessary repairs;

Secondly, the Government revenue and all debts and liabilities for the time being due or incurred to Government in respect of the property under management;

Thirdly, the rent (if any) due to any superior holder in respect of the said property;

Fourthly, such periodical allowance as the Commissioner may from time to time fix for the maintenance and other necessary expenses of the debtor and of such members of his family as the Commissioner directs;

Fifthly, the cost of such improvements of the said property as he thinks necessary and as are approved by the Commissioner.

The residue shall be retained by the manager for the liquidation, in manner hereinafter provided, of the debts and liabilities mentioned in section eight other than those so due or incurred to Government, and also for the repayment, either before or after the liquidation of such debts and liabilities, of any loan received from Government by the manager under this Act.

CHAPTER IV.—PROOF OF DEBTS AND SCHEME FOR LIQUIDATION.

12. On the publication of the order of management, the manager shall publish in the *Bombay Government Gazette* a notice in English and Gujrati calling upon all persons having claims against the debtor or the property under management to notify the same in writing to such manager within six months from the date of the publication.

He shall also cause copies of such notice to be exhibited at the Mámlatdárs' kachahris in the district in which the said property lies, and at such other places as he thinks fit.

13. Every such claimant shall, along with his claim, present full particulars thereof.

Every document on which the claimant founds his claim, or on which he relies in support thereof, shall be delivered to the manager along with the claim.

If the document be an entry in any book, the claimant shall produce the book to the manager together with a copy of the entry on which he relies. The manager shall mark the book for the purpose of identification, and after examining and comparing the copy with the original, shall return the book to the claimant.

Manager to pay therefrom—
costs of management and repairs,
Government revenue, &c.,

rent due to superior holder,
allowance for maintenance and expenses of debtor and family,

cost of improvements &c.
Residue how disposed of.

Notice to claimants against debtor.

Copies of notice to be exhibited.

Claim to contain full particulars.

Documents to be given up.

Entries in books.

Power to
exclude docu-
ments not
produced with
claim.

If any document in the possession or under the control of the claimant is not delivered or produced by him to the manager along with the claim, the manager may refuse to receive such document in evidence on the claimant's behalf at the investigation of the case.

Claim not
duly notified
to be barred.

14. Every such claim (other than claims of the Government) not notified to the manager within the time and in the manner required by such notice shall, except as provided in section nineteen, clause (d), be deemed for all purposes and on all occasions, whether during the continuance of the management or afterwards, to have been duly discharged :

Admission of
claims within
further period
of six months.

Provided that, when proof is made to the manager that the claimant was unable to comply with the provisions of section twelve, the manager may receive such claim within the further period of six months from the expiration of the original period of six months.

Determina-
tion of debts
and liabilities.

15. The manager shall inquire into the history and merits of every claim received under sections twelve and fourteen, and shall, in accordance with the rules to be made under this Act, determine the amount of the debts and liabilities (if any) justly due to the several claimants.

Power to
rank debts
and to fix
interest.

16. If such amount cannot be paid at once, the manager shall then proceed to rank such debts and liabilities according to the order in which they shall be paid, and to fix the interest (if any) to be paid thereon, respectively, from the date of the final decision thereon to the date of the payment and discharge thereof.

Scheme for
liquidation.

17. When the total amount of the debts and liabilities (including those due and incurred to Government) has been finally determined, the manager shall prepare and submit to the Commissioner a schedule of such debts and liabilities, and a scheme (hereinafter called the liquidation-scheme) shewing the mode in which it is proposed to pay and discharge the same, whether from the income of the property under management, or with the aid of funds raised under the powers hereinafter conferred, or partly in one of such ways and partly in the other.

Provisions of
scheme.

Every such scheme shall further provide for the continuance of the payments to be made by the manager under section eleven, and for the repayment of the money (if any) which the manager proposes to borrow from Government under this Act, and may provide for the improvement of the property under management either from the said income or with the aid of the funds raised as aforesaid, or partly in one of such ways and partly in the other.

Proceedings of
Commissioner
on submission
of scheme.

18. The Commissioner may—

(a) as often as he thinks fit send back such scheme to the

manager for revision, and direct him to make such further inquiry as may be requisite for the proper preparation of the scheme, or

(b) sanction any liquidation-scheme, or any revised liquidation-scheme, submitted to him, either as it stands, or subject to such modifications as he may deem expedient.

19. At any time before he has sanctioned a liquidation-scheme under section eighteen, the Commissioner may, by an order published in the *Bombay Government Gazette*, direct that on a date fixed by such order the management shall be relinquished. Power to relinquish management.

On the date so fixed—

(a) the management shall terminate ;

(b) the owner of the property under management shall be restored to the possession thereof, subject to any leases made under section ten ;

(c) any residue of the rents and profits of the said property retained under the last clause of section eleven shall be paid to him ; and

(d) the proceedings, processes, executions and attachments stayed and suspended under section nine, and the debts and liabilities barred by section fourteen, shall revive.

In calculating the periods of limitation applicable to suits to recover and enforce debts and liabilities revived under this section, the time during which the management has continued shall be excluded.

[The term suits in the last paragraph of this section includes applications for execution of decrees. *Bhulji v. Banaji*. 1. L. R., 5 Bom. 448.]

CHAPTER V.—OF THE PROCEEDINGS SUBSEQUENT TO SANCTION OF THE LIQUIDATION-SCHEME.

20. When the Commissioner sanctions the liquidation-scheme, he shall notify the fact of such sanction at such places and in such manner as the Local Government may from time to time by rule direct ; and thereupon— Effects of sanctioning scheme.

1st, all proceedings, processes, executions and attachments stayed or suspended under section nine shall be for ever barred, and

2nd, every debt or liability due or owing to any person which was proveable before the manager shall be extinguished, and such person shall be entitled to receive under the liquidation-scheme the amount (if any) finally awarded to him under Chapter IV of this Act in respect of such debt or liability.

21. If the property under management or any part thereof be in the possession of a mortgagee or conditional vendee, the manager, at any time after the liquidation-scheme has been sanctioned as aforesaid, may, by an order in writing, require such incumbrancer to Power to remove mortgagee in possession.

deliver up possession of the same to him at the end of the then current revenue year.

If such incumbrancer refuse or neglect to obey such order, the manager may, without resorting to a civil Court, enter upon the property and summarily evict therefrom the said incumbrancer and any other person obstructing or resisting on his behalf.

Nothing in this section shall be held to affect the right of any incumbrancer to receive, under the liquidation-scheme, the amount (if any) awarded to him under Chapter IV of this Act.

Power to inquire into consideration given for leases.

22. If the property under management or any part thereof be in the possession of any person claiming to hold under a lease dated within the three years immediately preceding the commencement of the management, the manager may inquire into the sufficiency of the consideration for which the lease was given; and if such consideration appear to him insufficient, may by order, with the consent of the Commissioner, at any time after the liquidation-scheme has been sanctioned as aforesaid, either set aside the lease or require the person so in possession to pay such consideration for the said lease as the manager thinks fit; and in default of such payment, the lease shall be cancelled.

Power to lease.

23. Subject to the rules made under section thirty-one, the manager, after the liquidation-scheme has been sanctioned as aforesaid, shall have power to demise all or any part of the property under management for any term of years not exceeding twenty years absolute, to take effect in possession, in consideration of the payment to him of any fine, or without fine, and reserving such rents and under such conditions, as may be agreed upon.

Power to raise money by mortgage or sale.

24. At any time after the liquidation-scheme has been sanctioned as aforesaid, the manager, with the previous assent of the Commissioner, shall have power to raise any money which may be required for carrying out such scheme—

(a) by mortgaging the whole or any part of the property under management for a term not exceeding twenty years from the publication of the order of management; or

(b) by charging the whole or any part of such property; or

(c) by selling, by public auction or by private contract, and upon such term as the manager thinks fit, such portion of the said property as may appear expedient; or

(d) by borrowing money from Government at such rate of interest as appears reasonable to the Local Government.

[See Bom. Act VI of 1888 s. 32.]

Manager's receipt a discharge.

25. The manager's receipt for any moneys, rents or profits raised or received by him under this Act shall discharge the person paying the same therefrom and from being concerned to see to the application thereof.

26. When the debts and liabilities mentioned in the liquidation-scheme and the amount of any loan received from Government under clause (d) of section twenty-four, together with the interest (if any) due thereon, have been paid and discharged as therein provided, or in such other manner as the Commissioner thinks fit, the manager shall publish in the *Bombay Government Gazette* a notice fixing a date for the termination of the management.

Termination
of manage-
ment.

On the date so fixed the management shall terminate, and the owner shall be restored to the possession and enjoyment of the property under management, or of such part thereof as has not been sold by the manager under the power conferred by section twenty-four, but subject to the leases and mortgages (if any) granted and made by the manager under the powers conferred by section ten, twenty-three and twenty-four.

Restoration of
owner.

27. If the debtor dies after the publication of the order of management and before the management has been terminated in either of the modes herein-before provided—

Death of
debtor during
management.

1st, the management shall continue and proceed in all respects as if such debtor were still living ;

2ndly, any person succeeding to the whole or any portion of the property under management shall, while such management continues, be subject in respect of such property to the disabilities imposed by clauses (b) and (c) of section nine; and

3rdly, no civil Court in British India shall, during the continuance of the management, issue any attachment or other process against any portion of the property under management, for or in respect of any debt or liability incurred by any such person whether before or after his said succession.

[When the Thákur whose indebtedness rendered necessary the application of the Act to his estate dies during the management, there is nothing in the act to bar a suit against the successor during the management in respect of his own debts, though a decree in such suit could not be executed against the family estate. *Bhikha v. Sidha*, 1886, P.J., 107.]

28. When a Thákur has been restored under section twenty-six to the possession of any property, no mortgage, charge, lease or alienation of such property, or of any part thereof, made by such Thákur, shall be valid as to any time beyond his natural life.

Mortgages,
&c., made by
restored
Thákur valid
only for his
life.

[See Bom. Act VI of 1888 s. 32.]

CHAPTER VI — OF APPEAL AND REVISION.

29. An appeal against any decision or order under sections fourteen, fifteen, sixteen and twenty-two, or imposing a fine or imprisonment in exercise of the powers conferred by section thirty-five, shall lie to the Commissioner, if preferred within six weeks from the date of such decision or order.

Appeal.

There shall be no appeal against the decision of the Commissioner on such appeal.

Power to call
for proceed-
ings and
pass order
thereon.

30. The Commissioner may, of his own motion or on the application of any person concerned, call for the proceedings in any case under this Act, and pass such order thereon consistent with the provisions of this Act as he thinks fit.

CHAPTER VII.—MISCELLANEOUS.

Power to
make rules.

31. The Local Government may, from time to time, make rules consistent with this Act—

(a) to regulate the security to be required from subordinate officers under this Act;

(b) to regulate the procedure in all cases under this Act;

(c) for the guidance of officers enquiring into and determining on claims under Chapter IV of this Act; and in particular as to the allowance of interest (if any) on each of the principal debts and liabilities so determined, from the date on which it was incurred down to the date of the determination, and on the aggregate amount of such debts and liabilities from the date of the determination down to the date of payment, and as to the order of paying debts and liabilities and repaying any loan received hereunder from Government;

(d) for investing any moneys received or raised by the manager under this Act in any Government securities of British India, and for the sale of such securities; and

(e) generally to carry out the provisions of this Act.

Such rules shall be published in the *Bombay Government Gazette*, and when so published shall have the force of law.

[The following rules have been framed and published in pursuance of the power given by this section.

1. All subordinate officers entrusted under the said Act with the collection, receipt, or custody of moneys, or of any valuable property, shall furnish security to the extent of three years' salary.

2. The order of management and the notices required to be issued under Sections, 7, 12 and 26 of the Act, shall be respectively in the Forms A, B and C, appended to these rules.

3. The Talukdári Settlement Officer, or other Manager, appointed under the Act, shall make the enquiry prescribed by Section 12, and prepare the Schedule of debts and liabilities and the liquidation-scheme, required by Section 17 in accordance with the following rules.

4. He shall ascertain the principal sum or sums originally or from time to time lent by each of the creditors severally, and this sum, or the aggregate of these sums, with 9 per cent. per annum simple interest on the amount of each debt, from the time when each debt was incurred up to the date on which the order of management was published, shall be the amount to be awarded, but subject to the following conditions, (namely):—

(1.)—That the amount of interest shall in no case exceed that of the principal;

(2.)—That the heir in the second generation of the person who originally incurred the debt shall pay the principal only and no interest;

(3.)—That the amount to be assigned in settlement of bonds held for services rendered by the creditor shall be determined by the Manager after hearing evidence as to the nature and extent of the service in question;

(4.)—That no interest shall be allowed on debts, accounts relating to which are not produced to the satisfaction of the Manager ;

(5.)—That when the amount of the original principal is not satisfactorily proved, a deduction of 50 per cent. shall be made from the amount of, the debt as it stood at the first stage at the which satisfactory proof of the existence of the debt is given ;

(6.)—That when no accounts are produced, the claim shall be disallowed, unless the debtor acknowledges the receipt of a sum in cash, in which case that sum shall be treated as the principal of the debt, but no interest shall be allowed ;

(7.)—That interest shall not be allowed on account-debts in the absence of any writing showing that interest on such debts should be allowed ;

(7a.)—A claim supported by a decree of a Civil Court shall be subject to the same enquiry as any other claim ; but in cases where it shall appear to the Manager that the suit was contested, and that the amount awarded either on account of principal or interest by the decree does not exceed by more than 25 per cent. the amount which could have been awarded by the Manager, if no such decree had been passed, the amount so awarded may be allowed, provided clause 1 of this rule be not infringed. But if interest subsequent to decree be claimed, it shall be calculated as if no decree had been passed.

(8.)—That all payments made by the Thákur to any creditor, and all profits which have been enjoyed by such creditor towards the liquidation of any debt or liability before the date of the order of management, shall be deducted from the principal sum of the said debt or liability, and interest on the amount so deducted shall be disallowed from the time of such payment or enjoyment, and the Manager shall determine the amount of profits realized under such enjoyment after examining such proofs as may be produced before him ;

(9.)—That if the principal of all the debts due by any Thákur with simple interest at 9 per cent., shall exceed the amount which it is estimated will be available for the settlement of the creditors' claims, subject to the provisions of Section 11 of the Act, during a period of twenty years, no interest shall be allowed on such debts as were not incurred by the present Thákur ; and that if after disallowing interest on such debts the amount necessary to liquidate the whole of the debts be still in excess of the amount estimated to be available for their liquidation, the rate of interest to be awarded on the remaining debts shall be decreased until the aggregate amount of capital and interest payable falls within the requisite limit.

5. Whenever a bond or decree of other claim has been transferred by sale, gift or otherwise from the original holder to any other person, the present holder thereof must support his claim by the same proofs as if he were the original holder.

6.—All admitted debts shall be satisfied proportionately in the following order :—

1st.—Money lent on the security of the estate.

2nd.—Decreed and bonded debts.

3rd.—Account-debts.

7. In deciding what claims are admissible, and to what amount they shall be admitted, the manager may appoint a Committee of experienced natives—consisting of three persons of whom one only shall be in the service of Government—to assist him, and may re-imburse the said Committee their necessary expenses out of percentage of the rents and profits which he may receive to be reserved by him to cover these and similar charges connected with the discharge of his duties.

8. If the creditors of any debtor themselves produce a schedule of the original sum lent by them severally, signed by the debtor, and both parties assent to the said schedule in presence of the Manager, the Manager may accept such schedule without further investigation, and make it the basis of the liquidation-scheme.

9. If the creditors agree to accept a sum of money from the Manager in immediate satisfaction of all their claims against the debtor, and the Manager shall determine to borrow money from Government for the purpose of making such payment, the Manager shall, on receipt of the orders of Government sanctioning such loan, order payment to be made to the creditors from the Government Treasury, provided that the creditors shall first severally pass receipts in full for all their claims, and that if any fraud is subsequent-

ly discovered to have been committed by any creditor in respect to any money received by him under this rule, such creditor shall be liable to forfeit all sums so received, and all claim to further compensation for any debt due to him which may have been notified to the Manager for satisfaction under the Act. The interest chargeable on such loan shall be at the rate of 5 per cent. per annum, or at such rate as may be specially fixed by the Manager with the sanction of Government and shall be repayable together with the amount of the loan as provided in Section 11 of the Act.

10. In estimating the amount of cash to be paid under the last rule in immediate satisfaction of admitted claims, the following points are to be considered, (namely) :—

(a.) The income of the debtor, the amount of the debt and the probability or improbability that the creditor would have been able to recover his debt if the Act had not been passed,

(b.) The nature of the particular debt,

(c.) The period for which the debt had been outstanding,

(d.) The interest hitherto enjoyed by the creditor, the rate of interest originally fixed, and the proportion between the amounts due as principal and interest, respectively at the present time.

11. If at any time the condition of a Thakur's estate shall be found sufficiently prosperous, the Commissioner may make such further awards beyond what is permitted by the previous rules as the circumstances shall seem to him to warrant.

APPENDIX A.

Order of management to be issued under Section 7.

WHEREAS (here enter the name and description of the applicant in full, and when he is not himself the Thakur, state whether he is the sole heir, or one of the heirs of the Thakur) has made an application to me under Section 4 of the Broach and Kaira Incumbered Estates Act, 1881, requesting that the provisions of the said Act be applied to his case (or to the case of _____);

And whereas upon enquiry it appears to me expedient that the provisions of the said Act should be so applied;

I do hereby direct that the immoveable property of the said _____ shall be managed and his debts liquidated in the manner provided in the said Act by the Talukdari Settlement Officer (or by _____);

Dated this _____ day of _____ 188 .

(Signed)

Commissioner, N. D.

APPENDIX B.

Notice under Section 12.

No.

Station and date.

WITH reference to the order of the Commissioner, N. D., published at page _____ of the *Bombay Government Gazette* of the _____ of _____ 188 , directing that the immoveable property of _____ be managed and his debts liquidated by me under the provisions of Act XXI of 1881, I hereby give notice and require under section 12 of the said Act, that all persons having claims against the said _____, or against the said property under my management, shall notify the same in writing to me within six months from the date of the publication of this notice.

The attention of intending claimants is called to the requirements of Section 13 of the said Act.

Description of property, situation, and boundaries.

Talukdari Settlement Officer,
(or Manager.)

APPENDIX C.

Notice under Section 26.

No.

3 *Station and date.*

WHEREAS the management of the immoveable property of _____ was, by order of the Commissioner, N.D., published at page _____ of the *Bombay Government Gazette*, dated the _____ day of _____ 188____, vested in me as the Manager appointed under Act XXI of 1881, and whereas all the debts and liabilities of the said _____ mentioned in the liquidation scheme framed under the provisions of the said Act have been liquidated as therein provided (or in accordance with the orders of the said Commissioner), notice is hereby given under Section 26 of the said Act, that my management of the said estate will terminate on the

Description of the property, situation, and boundaries.

Talukdari Settlement Officer,
(or Manager.)

or else the following (as the case may be) :—

No.

Station and date.

Whereas the management of the immoveable property of _____ was, by Government notification published at page _____ of the *Bombay Government Gazette*, dated _____, vested in _____ the Talukdari Settlement Officer as the Manager appointed under Act XV. of 1871, and whereas all the debts and liabilities of the said _____ mentioned in the liquidation-scheme framed under the provisions of the said Act, have been liquidated as therein provided; notice is hereby given, under Section 26 of Act XXI of 1881, that the management of the said estate by the undersigned will terminate on the

Talukdari Settlement Officer.

[See General Rules Revenue Department 1882 edn. pp. 339-342.]

32. Local Government may suspend or remove any manager, and may appoint any officer in the stead of any manager appointed under this Act; and thereupon the management then vested under this Act in the former manager shall become vested in the new manager. Power to appoint new manager.

Every such new manager shall have the same powers as if he had been originally appointed.

33. Every manager appointed under this Act and every agent of such manager shall be deemed a public servant within the meaning of the Indian Penal Code. Managers and their agents to be public servants.

34. Every investigation conducted by the manager with reference to any claim preferred before him under this Act, or to any matter connected with any such claim, shall be taken to be a judicial proceeding within the meaning of the Indian Penal Code. Investigation, a judicial proceeding.

35. For the purposes of this Act, the manager and any officer making an inquiry under section five may summon and enforce the attendance of witnesses and compel them to give evidence, and compel the production of documents, by the same means and, as far as possible, in the same manner, as is provided in the case of a civil Court by the Code of Civil Procedure. Power to summon witnesses and compel production of documents.

36. No suit or other proceeding shall be maintained against any person in respect of anything done by him *bona fide* pursuant to this Act. Bar of suits.

Saving of jurisdiction of Courts in Broach and Kaira in respect of certain suits.

37. Nothing in this Act precludes the Courts in Broach and Kaira having jurisdiction in suits relating to the succession to any immoveable property brought under the operation of this Act from entertaining and disposing of such suits; but to all such suits the manager of such property shall be made a party.

Exemption of certain Thákurs from certain provisions of Act.

38. Nothing in section nine shall be deemed to render any of the following Thákurs, namely, the Thákur of Ahmod, the Thákur of Sarod, the Thákur of Kerwára, the Thákur of Dehej, and the Thákur of Janiádra incompetent to enter into contracts involving him in pecuniary liability, nor shall anything in section twenty-eight apply to any of the said Thákurs.

Provided that, if any such Thákur has, since the scheme for the settlement of his debts and liabilities was approved under section 11 of the said Act No. XV of 1871, entered into any contract involving him in pecuniary liability exceeding the average annual income derived during the previous five years from his immoveable property after deducting therefrom the land-tax and other dues of Government, the Local Government may, by notification in the *Bombay Government Gazette*, declare that the exemption made by the former part of this section shall cease in his case, and thereupon such exemption shall cease accordingly.

ACT No. XXIII OF 1881.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 26th October, 1881.)

An Act to amend the Dekkhan Agriculturists' Relief Act, 1879.

Preamble.

WHEREAS it is expedient to amend, in manner hereinafter appearing, the Dekkhan Agriculturists' Relief Act, 1879; It is hereby enacted as follows:—

Short title. Commencement.

1. This Act may be called "The Dekkhan Agriculturists' Relief Act, 1881";

and it shall come into force at once.

"Section."

2. In this Act "section" means a section of the Dekkhan Agriculturists' Relief Act, 1879.

3. [The amendment effected by this section has been inserted in its proper place. See Act XVII of 1879 s. 1.]

4 & 5. [Repealed by Act XII of 1891.]

6 to 15. [The amendments effected by these sections have been inserted in their proper places. See Act XVII of 1879 ss. 19, 38, 44, 47, 48, 51, 56, 57, 58 and 68.]

16. [Repealed by Act XII of 1891.]

17. [The amendment effected by this section has been inserted in its proper place. See Act XVII of 1879 s. 1.]

ACT No. XXII OF 1882.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 22nd December, 1882.)

An Act to amend the Dekkhan Agriculturists' Relief Act, 1879.

WHEREAS it is expedient to amend in manner hereinafter appearing the Dekkhan Agriculturists' Relief Act, 1879; It is hereby enacted as follows:—

1. (1) This Act may be called the Dekkhan Agriculturists' Relief Act, 1882; and it and the Dekkhan Agriculturists' Relief Act, 1879, and the Dekkhan Agriculturists' Relief Act, 1881, may be cited collectively as the Dekkhan Agriculturists' Relief Acts, 1879 to 1882.

(2) This Act shall come into force on the first day of February, 1883.

2. In this Act, unless there is something repugnant in the subject or context, "section" means a section, and "chapter," a chapter of the Dekkhan Agriculturists' Relief Act, 1879, as amended by the Dekkhan Agriculturists' Relief Act, 1881.

3 to 16 [The amendments effected by these sections have been inserted in their proper places. See Act XVII of 1879 ss. 2, 2A, 3, 15A, 15B, 15C, 15D, 19, 21, 22, 29, 30, 44, 47, 50, 52, 53, 54 and 57.]

17. [Repealed by Act XII of 1891.]

18. [The amendment effected by this section has been inserted in its proper place. See Act XVII of 1879 s. 73A.]

19. [Repealed by Act XII of 1891.]

ACT No. XI OF 1884.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 19th June, 1884.)

An Act to amend the Sindh Incumbered Estates Act, 1881.

WHEREAS it is expedient to amend the Sindh Incumbered Estates Act, 1881, in manner hereinafter appearing; It is hereby enacted as follows:—

1. This Act may be called "the Sindh Incumbered Estates Act, 1884; and shall come into force at once.

2. To the definition of zamindar in the Sindh Incumbered Estates Act, 1881, the following shall be added, namely:—

[Added see Act XX of 1881 s. 3.]

3. After section 5 of the said Act the following section shall be inserted, that is to say:—

[Inserted See section 5A, Act XX of 1881.]

Short title.
Commence-
ment.
Definition of
zamindar in
Act XX of
1881 amend-
ed.
New section
to follow sec-
tion 5 of same
Act.

Amendment
of section 8 of
same Act.

4. In section 8, after the words "all immoveable property" the words "including any interest in joint immoveable property" shall be inserted.

[The amendment has been made in Act XX of 1881.]

Amendment
of section 9 of
same Act.

5. In section 9 of the same Act, after the words "Civil Court," in both places where they occur, the words "or Revenue Court or Office" shall be inserted.

[The amendment has been made in Act XX of 1881.]

New section
to follow sec-
tion 24 of
same Act.

6. After section 24 of the said Act the following shall be inserted:—

[Inserted See section 24A, Act XX of 1881.]

Amendment
of section 27
of same Act.

7. In section 27 of the said Act, after the words "Civil Court," the words "or Revenue Court or Office" shall be inserted.

[The amendment has been made in Act XX of 1881.]

Time of mak-
ing applica-
tions under
same Act.

8. (1) When any person would not have been a zamindar within the meaning of the said Act before the passing of this Act, but is a zamindar within the meaning of the said Act as amended by this Act, an application in respect of his estate under section 4 of the said Act may be made at any time within six months from the passing of this Act.

(2) A member of a joint family or other body of co-owners holding zamindari land shall, for the purposes of this section, be deemed to be a person who would not have been a zamindar within the meaning of the said Act before the passing of this Act.

Order of ma-
nagement un-
der same Act
to be deemed
in accordance
with law.
Power to re-
vise scheme of
management
under same
Act.

9. Every order of management made under the said Act whether before or after the passing of this Act shall be deemed to have been made in accordance with law.

10. Notwithstanding anything contained in the said Act, the Commissioner may, at any time after he has, whether before or after the passing of this Act, sanctioned a liquidation-scheme under the said Act, revise and modify the same, but not so as to affect the right of any person to receive in full before the termination of the management the amount finally awarded to him under Chapter IV of the said Act.

ACT No. VII OF 1885.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

*(Received the assent of the Governor General on the 20th
February, 1885.)*

An Act to amend the law in force in the Páñch Maháls.

WHEREAS it is expedient that the law in force in the territory comprised in the Páñch Maháls should, on and from the first day of May, 1885, be the same as the law in force in the district of Kaira,

in the Bombay Presidency, and that the said territory should, on and from that day, cease to be a scheduled district under the Scheduled Districts Act, 1874, and the Laws Local Extent Act, 1874; It is hereby enacted as follows:—

1. This Act may be called the Páñch Maháls Laws Act, 1885. Short title.

2. (1) Save and except the enactments specified in the schedule hereto annexed, all enactments which on the first day of May, 1885, are in force in the district of Kaira and not in the Páñch Maháls shall be deemed to come into force in the Páñch Maháls on that day. Laws of Kaira to apply.

(2) All enactments which on that day are in force in the Páñch Maháls and not in the district of Kaira shall be deemed to be repealed on and from that day in the Páñch Maháls. Other laws repealed.

3. All proceedings commenced before any authority in the Páñch Maháls before the first day of May, 1885, and still pending on that day, shall be disposed of by such authority as the Local Government may direct, and, save as aforesaid, shall be carried on as if this Act had not been passed. Pending proceedings.

4. On and from the first day of May, 1885, the Páñch Maháls shall cease to be a Scheduled District. Territory to cease to be scheduled district.

[Printed as amended by Act XII of 1891.]

THE SCHEDULE.

ENACTMENTS EXCEPTED FROM THE OPERATION OF SECTION 2.

Acts of the Governor General in Council.

Number and year.	Title.	Extent of exception.
VIII of 1870...	For the prevention of the murder of female infants.	The whole.
XXI of 1881.....	To amend the law providing for the relief of Thákurs in the districts of Broach and Kaira.	The whole.

Acts of the Governor of Bombay in Council.

Number and year.	Title.	Extent of exception.
V of 1862	For the preservation of the Bhágdári and Narwádári Tenures.	The whole.
V of 1879	To consolidate and amend the law relating to Revenue-Officers and the Land-revenue in the Presidency of Bombay.	Section 85 and last fifteen words of section 58.

ACT No. XXIII OF 1886.

PASSED BY THE GOVERNOR GENERAL OF INDIA
IN COUNCIL.*(Received the assent of the Governor General on the 22nd October, 1886.)**An Act to amend the Dekkhan Agriculturists' Relief Acts, 1879 to 1882.*

WHEREAS it is expedient to amend in manner hereinafter appearing the Dekkhan Agriculturists' Relief Acts, 1879 to 1882; It is hereby enacted as follows:—

Short title and
commence-
ment.

1. (1) This Act may be called "The Dekkhan Agriculturists' Relief Act, 1886; and it and the Dekkhan Agriculturists' Relief Acts 1879 to 1882, may be cited collectively as the Dekkhan Agriculturists' Relief Acts, 1879 to 1886.

Definition.

(2) This Act shall come into force on the first day of January, 1887.

2. In this Act, unless there is something repugnant in the subject or context,—

"section" means a section, and "chapter" a chapter, of the Dekkhan Agriculturists' Relief Act, 1879, as amended by the Dekkhan Agriculturists' Relief Act, 1881 and the Dekkhan Agriculturists' Relief Act, 1882.

3 to 12. [The amendments effected by these sections have been inserted in their proper places. See Act XVII of 1879 ss. 1, 2, 3, 12, 22, 40, 56, 58 and 72, and also chap. VIII A.]

13. [Repealed by Act XII of 1891.]

ACT No. XII OF 1888.

PASSED BY THE GOVERNOR GENERAL OF INDIA
IN COUNCIL.*(Received the assent of the Governor General on the 12th October, 1888.)**An Act to supplement certain provisions of the City of Bombay Municipal Act, 1888, and of the Calcutta Municipal Consolidation Act, 1889.*

WHEREAS it is expedient to supplement by legislation in the Council of the Governor General for making Laws and Regulations certain provisions of the City of Bombay Municipal Act, 1883, and of the Calcutta Municipal Consolidation Act, 1889; It is hereby enacted as follows:—

Confirmation
of the City of
Bombay Mu-
nicipal Act,
1888, and the
Calcutta Mu-
nicipal Conso-
lidation Act,
1889, so far
as regards

1. The City of Bombay Municipal Act, 1888, and the Calcutta Municipal Consolidation Act, 1889, shall, so far as regards—

(a) the jurisdiction thereby conferred upon Appellate Benches of Municipal Authorities and upon Presidency and other Magistrates and Courts of Small Causes or any Judge of such a Court, and

(b) the decisions, orders and other proceedings of those Benches, Magistrates and Courts or of any such Judge, be as valid as if they had been passed by the Governor General of India in Council at a meeting for the purpose of making Laws and Regulations.

2. (1) If before or on the hearing of an appeal under section 217 of the City of Bombay Municipal Act, 1888, any question of law or usage having the force of law, or the construction of a document, which construction may affect the merits, arises, on which the Chief Judge of the Court of Small Causes of Bombay entertains reasonable doubt, the Chief Judge may, either of his own motion or on the application of either or any of the parties, draw up a statement of the facts of the case and the point on which doubt is entertained, and refer the statement, with his own opinion on the point, for the decision of the High Court of Judicature, at Bombay.

Reference of questions by the Chief Judge of the Bombay Small Cause Court to the Bombay High Court.

(2) When a reference is made to the High Court under sub-section (1), the provisions of sections 618 to 621, both inclusive, of the Code of Civil Procedure shall, so far as they can be made applicable, apply to the Chief Judge of the Court of Small Causes and to the High Court, respectively.

3. (1) An appeal shall lie to the High Court of Judicature at Bombay from a decision passed by the Chief Judge of the Court of Small Causes of Bombay under section 503 or section 504 of the City of Bombay Municipal Act, 1888, when the amount of the claim in respect of which the decision is passed exceeds two thousand rupees.

Appeal to the Bombay High Court from certain orders of Chief Judge of the Bombay Small Cause Court.

(2) The provisions of the Code of Civil Procedure with respect to appeals from original decrees shall, so far as they can be made applicable, apply to appeals under sub-section (1), and orders passed therein by the High Court may, on application to the Chief Judge of the Court of Small Causes, be executed by him as if they were decrees made by himself.

(3) A decision passed by the Chief Judge of the Court of Small Causes of Bombay under section 503 or section 504 of the City of Bombay Municipal Act, 1888, shall, if an appeal does not lie therefrom under sub-section (1), be final.

4. (1) An appeal shall lie to the High Court of Judicature at Bombay from an order passed by a Presidency Magistrate under section 515 of the City of Bombay Municipal Act, 1888.

Appeal to the Bombay High Court from orders of Presidency Magistrates in Bombay.

(2) The High Court may from time to time make rules for regulating the admission of appeals under sub-section (1) and the procedure to be followed in the adjudication thereof.

(3) When an appeal has been preferred to the High Court under this section, the Municipal Commissioner for the City of Bombay

shall defer action upon the order of the Presidency Magistrate until the appeal has been disposed of :

(4) But, when the appeal has been disposed of, he shall forthwith give effect to the order passed therein by the High Court, or, if the order of the Presidency Magistrate has not been disturbed by the High Court, then to his order.

(5) When disposing of an appeal under this section the High Court may direct by whom the costs of the appeal are to be paid, and whether in whole or in what part or proportion.

(6) Costs so directed to be paid may, on application to a Presidency Magistrate, be recovered by him, in accordance with the direction of the High Court, as if they were a fine imposed by himself.

Period of limitation for appeals to the Bombay High Court under the two last foregoing sections.

5. An appeal to the High Court of Judicature at Bombay under either of the two last foregoing sections shall, for the purposes of No. 156 of the second schedule to the Indian Limitation Act, 1877, be deemed to be an appeal under the Code of Civil Procedure in a case not provided for by No. 151 and No. 153 of that schedule.

ACT NO. VIII OF 1892.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 22nd October, 1892.)

An Act to remove doubts as to the levy and collection of tolls upon the Lansdowne Bridge over the Indus at Sukkur in the Presidency of Bombay, and for other purposes.

WHEREAS by an Act passed by the Governor of Bombay in Council, intituled "an Act for enabling Government to levy tolls on public roads and bridges in the Presidency of Bombay," the Act of the Governor General in Council "for enabling Government to levy tolls on public roads and bridges" was repealed as far as it affected the Presidency of Bombay ;

And whereas the bridge on the line of the North-Western Railway over the Indus at Sukkur in the said Presidency of Bombay, commonly known as "The Lansdowne Bridge," was made and is repaired at the expense of the Government of India ;

And whereas, in consequence of such repeal as aforesaid, doubts have arisen whether or not there is any subsisting authority competent to impose and levy tolls for the use of the said bridge, and it is expedient to remove such doubts ;

It is enacted as follows :—

1. (1) This Act may be called "The Lansdowne Bridge Act, 1892." Title, extent and Commencement.

(2) It extends to the whole of British India ; and

(3) It shall come into force at once.

2. Notwithstanding the repeal of the lastly hereinbefore mentioned Act, the Governor General in Council may cause such rates of toll, not exceeding the rates mentioned in the schedule annexed to that Act, as he may think fit to be levied in respect of the said Lansdowne Bridge, and may place the collection of such tolls under the management of such persons as may appear to him proper : and all the provisions of the said last mentioned Act shall apply to such tolls and the collection and recovery thereof in the same manner as if such provisions were herein re-enacted verbatim.

3. All tolls heretofore levied or collected upon the said Lansdowne Bridge under the authority of the Governor General in Council or of the Governor of Bombay in Council shall be deemed to have been duly levied and collected under the authority of the said Act as if the same had not been repealed. Validation of past levy of tolls.

4. Where any public road or bridge has or shall have been made and repaired at the expense of the Government of India and no other adequate provision shall have been made for the levy and collection of tolls thereon, the Governor General in Council may, by notification in the Gazette of India, apply this Act to such road or bridge, and thereupon all the provisions of this Act shall apply to such road or bridge as if the same had been herein named in addition to the said Lansdowne Bridge. Application of Act to public roads and bridges.

PASSED BY THE GOVERNOR GENERAL OF INDIA
IN COUNCIL,

(Received the assent of the Governor General on the 23rd
February 1894.)

ACT No. IV OF 1894.

An Act to repeal certain obsolete Enactments and to amend certain other Enactments.

WHEREAS it is expedient that certain enactments specified in the first schedule to this Act which are spent, or have ceased to be in force otherwise than by express specific repeal, or have by lapse of time or otherwise become unnecessary, should be expressly and specifically repealed;

And whereas it is also expedient that certain formal amendments should be made in the enactments specified in the second schedule to this Act;

It is hereby enacted as follows:—

Title, extent and commencement.

1. (1) This Act may be called the Repealing and Amending Act, 1894.

(2) It extends to the whole of the territories administered by the Governor of Bombay in Council; and

(3) It shall come into force at once.

2. (1) The enactments specified in the first schedule are hereby repealed to the extent mentioned in the fourth column thereof.

Enactments in schedules repealed and amended respectively.

(2) The enactments specified in the second schedule shall be modified to the extent and in the manner mentioned in the fourth column thereof.

3. The repeal by this Act of any enactment shall not affect any Statute, Act or Regulation in which such enactment has been applied, incorporated or referred to;

Savings.

and this Act shall not affect the validity, invalidity, effect or consequences of anything already done or suffered, or any right, title, obligation or liability already acquired, accrued or incurred, or any remedy or proceeding in respect thereof, or any release or discharge of or from any debt, penalty, obligation, liability, claim or demand, or any indemnity already granted, or the proof of any past act or thing;

nor shall this Act affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or appointment, notwithstanding that the same respectively may have been in any manner affirmed, recognized or derived by, in or from any enactment hereby repealed;

nor shall the repeal by this Act of any enactment provide or restore any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force.

THE FIRST SCHEDULE. ENACTMENTS REPEALED.

1	2	3	4
Year.	No.	Subject or title.	Extent of repeal.

Part I.—Regulations of the Bombay Code.

1827	V	Acknowledgment of debts ; interest ; mortgages.	Appendix B.
"	XII	Police	Appendix E.
"	XIII	Criminal Courts	Appendices A, B, D, E, F, G, H, I, J, K, L, M and N.
"	XX	Customs and Duties.. ..	So much as has not been repealed.
"	XXI	Duty on Opium and Spirits...	So much as has not been repealed.
"	XXIX	Dekkhan and Khândesh	In section 2, clause first, <i>the words and figures</i> with the exception of Regulation XVIII and of any enactments relating to stamps.
1834	I	Deputy Agent for Sardars in Dekkhan.	In the title, <i>the words and figures</i> and for rescinding Regulation V of 1828, which defines the duties and jurisdiction of that office. In the preamble, <i>the words</i> to have effect from the date of promulgation.

Part II.—Rules, Ordinances and Regulations relating to the Town and Island of Bombay.

1825	II	Repealing in part Rule, Ordinance and Regulation I of 1812.	The whole.
1827	I	Repealing in part Rule, Ordinance and Regulation I of 1814.	The whole.

THE FIRST SCHEDULE.—(continued.)

1	2	3	4
Year.	No.	Subject or title.	Extent of repeal.

Part II.—Rules, Ordinances and Regulations relating to the Town and Island of Bombay.—(continued.)

1828	I	Preventing goods from being left on quays.	The whole.
1834	I	Repealing in part Rule, Ordinance and Regulation II of 1827.	So much as has not been repealed.

Part III.—Acts of the Governor General in Council.

1836	VII	Authority of certain Regulations.	So much as has not been repealed.
1852	XI	Titles to rent-free estates ...	In the preamble, <i>the words and figures</i> and incapable of being justly disposed of under the rules for the determination of titles and the rules of procedure contained in Chapters IX and X of Regulation XVII of 1827 of the Bombay Code and their supplements. So much of section 1 as has not been repealed. In section 2, <i>the words</i> the said.
1874	XV	Laws Local Extent Act, 1874.	Section 8, clause (f).
1875	VI	Loan to Sir Jamsetjee Jeejeebhoy.	The whole.
1876	X	Bombay Revenue Jurisdiction Act, 1876.	In the preamble, <i>the words and figures</i> and to provide for the recovery by the Local Government of advances made for purposes other than those specified in section three of the Land Improvement Act, 1871.
1877	XIV	Broach and Kaira Incumbered Estates Act, 1877.	In section 39, <i>the word</i> And <i>where it first occurs</i> and the word further. In section 41, clause (b), <i>the words</i> the said.
1878	I	Opium Act, 1878 ...	The third paragraph of section 2.
1884	XI	Sindh Incumbered Estates Act, 1884.	Section 8. Section 9.

THE SECOND SCHEDULE.

ENACTMENTS AMENDED.

1	2	3	4
Year.	No.	Subject or title.	Amendment.
<i>Part I.—Regulation of the Bombay Code.</i>			
1830	XIII	Jurisdiction of Jagirdars, etc.	In section 3, clause third, <i>after</i> open to insert appeal to.
<i>Part II.—Act of the Governor General in Council.</i>			
1839	XX	Levy of haqq, etc. ...	In section 3, <i>for</i> shall be punishable as for an undue exaction under Regulation XVII of 1827, section XVI, of the Bombay Code, notwithstanding the offender be not a Revenue Officer of Government, <i>read</i> shall, whether he is or is not a Revenue Officer of Government, be punishable with imprisonment for a term which may extend to seven years, and shall also be liable to fine not exceeding ten times the amount of the sum so levied.

*Insert Pages 248 A to 248 F
given in the third volume.*

*Act No VI of 1895—
An Act to amend the Deccan Agriculturists'
Relief Acts 1879 to 1886*

APPENDIX.

[The following though a General Act is printed here because Act XVIII of 1879 except sections 1 and 2, which repeals Act XX of 1865 and which in its turn repeals Act I of 1846, is not extended to Bombay.]

Act No. I of 1846.

(Received the assent of the Governor-General on the 7th January 1846.)

An Act for amending the law regarding the Appointment and Remuneration of Pleaders in the Courts of the East India Company.

[The whole of this Act will be repealed by Act XX of 1865 if that Act should be extended to Bombay.]

I to III. [Repealed by Act XVI of 1874.]

IV. The office of Pleader in the Courts of the East India Company shall be open to all persons of whatever nation or religion, provided that no person shall be admitted a Pleader in any of those Courts unless he have obtained a certificate in such manner as shall be directed by the Sudder Courts that he is of good character and duly qualified for the office, any Law or Regulation to the contrary notwithstanding.

[Printed as amended by Act XVI of 1874.]

V. Provided that every Barrister of any of Her Majesty's Courts of Justice in India shall be entitled as such to plead in any of the Sudder Courts of the East India Company, subject however to all the Rules in force in the said Sudder Courts applicable to Pleaders whether relating to the language in which the Court is to be addressed of to any other matter.

[Printed as amended by Act XVI of 1874.]

VI. Section 52, Regulation II of 1827, of the Bombay Code, shall cease to be enforced excepting for the purpose specified in Section VII of this Act.

[Printed as amended by Acts XVI of 1874 and XII of 1891.]

VII. Parties employing authorised Pleaders in the said Courts shall be at liberty to settle with them by private agreement the remuneration to be paid for their professional services, and it shall not be necessary to specify such agreement in the Vakalatnama; provided that when costs are awarded to a party in any regular suit, original or appeal, decided on the merits, against another party, the amount to be paid on account of fees of Pleaders, shall be calculated according to the Rules contained in the Section of Regulation specified in Section VI of this Act; and that when costs are awarded in other cases the amount to be paid on account of such fees shall be one-fourth of what it would have been in a regular suit decided on its merits.

[Printed as amended by Acts XVI of 1874; XII of 1876 and XII of 1891.]

When a suit is not decided on the merits and where no express agreement as to remuneration is made a Pleader is entitled, as against his client, to a *quantum meruit* to be determined with reference to all the circumstances of the case and not only to one-fourth fee. This Section only lays down the percentages for regulating costs between party and party which may be taken as a guide but not a rule of a law in determining the *quantum meruit*. *Keshav v. Jamsetji*, I. L. R., 12 Bom. 557.

Inam patras, or agreements, oral or written, made contemporaneously with the Vakalatnama by clients with their Pleaders for the payment of rewards in addition to the regulation fees, provided their cases are decided in their favour, are not illegal. *Parshram v. Hiranman*, I. L. R., 8 Bom. 413.]

VIII. Private agreements between parties and their Pleaders respecting the remuneration to be paid for professional services shall not be enforced otherwise than by a regular suit.

[Printed as amended by Act XVI of 1874.]

IX. [This Section relates to Bengal and Madras.]

X. Whenever a Pleader has rendered himself liable to a fine in the Court of a Principal Sudder Ameen or Sudder Ameen, it shall be competent to such Principal Sudder Ameen or Sudder Ameen to impose such fine; provided that an appeal from all orders imposing such fines shall lie to the Zillah or City Judge, whose decision thereon shall be final.

[Printed as amended by Act XVI of 1874.]

XI. The Rules applicable to Pleaders in the Courts of the Zillah and City Judges shall henceforth be applicable, so far as they are capable of application, to Pleaders in the Moonsiff's Courts.

[Printed as amended by Act XVI of 1874.]

XII. Whenever a Pleader has conducted himself in such a manner in the Court of a Moonsiff as would have rendered him liable to a fine if he had so conducted himself in the Court of a Zillah or City Judge, it shall be competent to such Moonsiff to impose such fine; provided that an appeal from all orders imposing such fines shall lie to the Zillah or City Judge, whose decision thereon shall be final.

[Printed as amended by Act XVI of 1874.]

XIII. [This Section relates to Madras.]

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1-33-33



